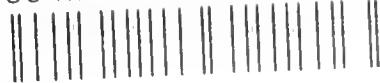


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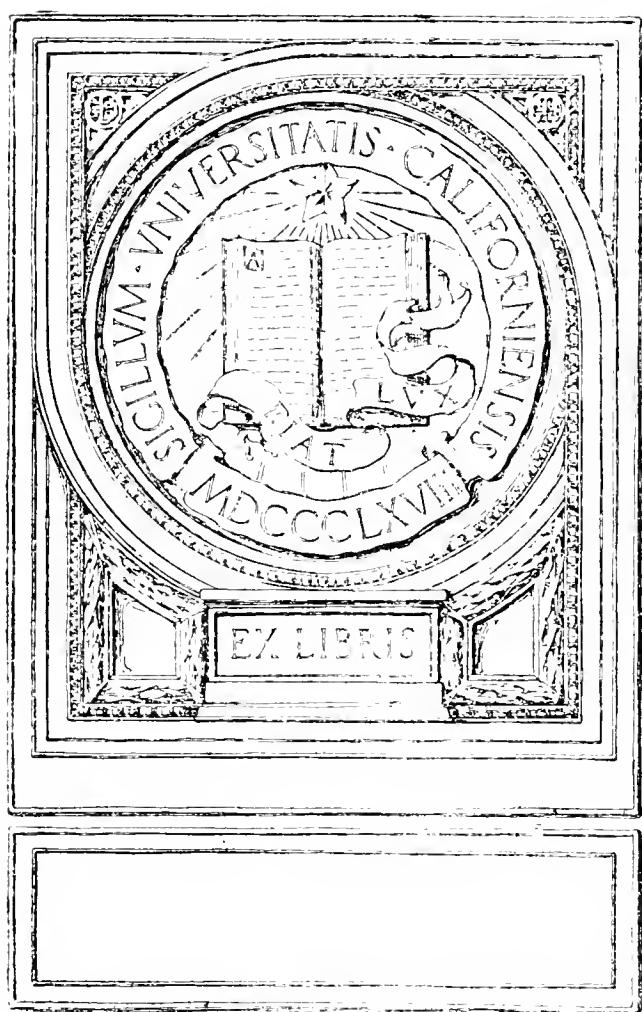
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ADMINISTRATION

MILITARY LAW

BY
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29TH INFANTRY

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1917

Night Operations

A Department devoted to the interest of newly-commissioned Infantry officers, officers of the Infantry Officers' Reserve Corps and candidates for commission.

Conducted by Capt. W. H. Waldron, 29th Infantry

ADMINISTRATION

Q. What is Military Rank?

A. Military rank is that character or quality bestowed on military persons which marks their station, and confers eligibility to exercise command or authority in the military service within the limits prescribed by law. It is divided into degrees or grades, which mark the relative positions and powers of the different classes of persons possessing it. (7)¹

Q. What determines the order of precedence of officers in the military service?

A. In each grade or sub-grade, the date of commission, appointment or warrant determines the order of precedence. (9)

Q. Command exercised is by virtue of what?

A. By virtue of office and the special assignment of officers holding military rank, who are eligible by law to exercise command. (13)

Q. May an officer place himself on duty by virtue of his commission alone?

A. No officer may place himself on duty without orders from competent authority except when it may be necessary to exercise the functions of his office to quell quarrels, frays and disorders among troops (old 24th Article of War); or, when upon marches, guards, or in quarters, different corps of the army happen to join or do duty together, when the highest ranking officer of the line of the army present assumes command of the whole (old 122d Article of War). (13)

Q. What are the appropriate commands for officers of the several grades?

A. 1. For a captain, a company.
2. For a major, a battalion.
3. For a colonel, a regiment.
4. For a brigadier-general, a brigade.

5. For a major-general, a division. (14)

Q. What is the status of an officer who succeeds another to any command or duty?

A. He assumes the exact status of his predecessor. He will receive all the orders in force at the time; receive, receipt for and assume responsibility and accountability for all property and funds pertaining to his command or duty. (17)

Q. May an officer of the Staff Departments command troops?

A. An officer of the Staff Departments, whether he be one of the permanent officers or one detailed for duty therein, is eligible, by virtue of his commission, to command all enlisted men, but he cannot assume command of troops unless placed on duty under orders which specifically direct that it is done by authority of the President. (18)

Q. Before whom may an officer of the Army take his oath of office?

A. 1. Before any officer who is authorized by the laws of the United States or by local municipal law to administer oaths: Notary Public, Justice of the Peace, Clerks of Courts, etc.
2. A Department Judge Advocate.
3. The Judge Advocate of a General or Special Court Martial.
4. The trial officer of a Summary Court. (23)

Q. What qualifications must a civilian possess for appointment as Second Lieutenant in the Army?

A. 1. He must be unmarried.
2. He must be between the ages of 21 and 27 years.
3. He must be approved as to moral character, habits, mental and physical ability, education and general fitness for the service.
4. He must pass the physical examination required of recruits for admission to the

¹ Numbers refer to paragraphs in Army Regulations.

Regular Army, and the mental examination prescribed in general orders issued from the War Department covering the subject.

5. No person will be examined by a board of officers unless he has a letter from the War Department authorizing such examination.
6. If the candidate has graduated from an institution where he received military instruction, he must present a diploma or a recommendation from the faculty of the institution.
7. If the candidate is a member of the Organized Militia, he must present recommendations from the proper authorities thereof. (34-35)

Q. What do you understand by the "Manchu Law"?

- A. The "Manchu Law" provides that no officer of the line of the Army may be detached from duty with troops for more than four years out of six; that is, all officers of the line of the Army must serve with troops for at least two years out of every six years. (40)

Q. What are the regulations governing the granting of leaves of absence to officers of the Army?

- A. 1. Post commanders and officers having a similar status may grant leaves for one month.
2. Commanders of territorial departments, tactical divisions and separate brigades may grant leaves for four months, or extend for that period leaves granted by their subordinate commanders.
3. Chiefs of bureaus may grant leaves of four months to officers of their respective corps serving under their immediate direction, or extend to that period those already granted to such officers.
4. Leaves of absence for three months from date of graduation are allowed graduates of the Military Academy.
5. Leaves of absence will not be granted so that a company will be left without a commissioned officer, or a post without two commissioned officers and competent medical attendance.
6. Leaves will not be granted during the period of active military operations except in cases of urgent necessity.
7. Except under extraordinary circumstances an officer will not be granted a leave exceeding ten days until after

he has joined and served with his organization for at least two years.

8. A sick leave of absence is granted only on the recommendation of a medical officer, after a thorough examination of the officer and a report completely covering the case in question. Sick leaves do not count against an officer's leave privileges.
9. Leaves are granted in periods of months and days as "one month"; "one month and ten days," etc.
10. A leave commences on the day following that on which the officer departs from his station. The day of departure is counted as a day of duty and the day of return as a day of absence.
11. Officers on leave of absence are not allowed to go beyond the sea without the special permission of the authority granting the leave, or permission from higher authority.
12. Permission to hunt is not counted against an officer's leave period, provided he submits a report containing a full description of the country traversed while hunting.
13. By custom of the service the leave year extends from July 1st to the succeeding June 30th. An officer is entitled to thirty days' leave a year. This leave period may be allowed to accumulate for a period of four years.
14. All correspondence relating to leaves, their extension and application for delays, is required to pass through the prescribed military channels.
15. Verbal permits for an absence of less than 24 hours are not counted as leaves and are not noted against an officer on the rolls and returns. (49 to 66)

Q. What action is required of an officer when he takes advantage of a leave of absence granted to him?

- A. He writes letters to (a) His post or regimental commander; (b) the authority granting the leave when the latter is other than the post or regimental commander; (c) to the Adjutant-General of the Army, War Department, Washington, D. C.; containing the following information:
1. The date of departure on leave.
 2. The address where correspondence will reach him.

The body of this letter would read as follows:

1. I have this 16th day of October, 1916, taken advantage of leave of absence for one month and twenty days granted by paragraph 18, Special Orders No. 224, c. s. (current series) Eastern Department.
2. My address during the period of this leave will be

543-142d Street,
New York City,

John Doe.

Any change in the address will be reported promptly to the same authorities. On return to duty a letter will be addressed to the same authorities informing them of such return to duty. (64)

Q. What action is taken by an officer when he reports to a station for duty?

- A. 1. He puts on his uniform and side-arms.
2. Proceeds to the office of the adjutant, introduces himself and indicates his desire to report to the Commanding Officer.
3. When informed by the Adjutant that the commanding officer will receive him, he places himself in front of the commanding officer, facing him, stands at attention, salutes and reports:

Sir, First Lieutenant John Doe, such-and-such organization, reports for duty.

4. At this time Lieutenant Doe presents a copy of the order directing him to report for duty. On the face of the order he will have previously noted the date and place of its receipt. (Received Oct. 16th, 1916—New York City.)
5. The Commanding Officer will return the salute, probably shake hands with him and welcome him to the regiment.
6. The remainder of the ceremony is rather in the nature of a social call, during which time Lieutenant Doe will receive instructions regarding quarters, messing, etc. (68)

Q. What action is taken when an officer has apparently taken undue time in reporting for duty after the receipt of an order?

- A. If he shall appear to have made unnecessary delay en route, he will be required to explain the cause thereof in writing.

If the commanding officer deem the explanation unsatisfactory, he will forward the same, with a statement of the facts in the case, to the department commander. (68)

Q. How are delays in reporting for duty and from leave regarded?

- A. When such delays are duly authorized, they are regarded as leaves of absence. (70)

Q. When orders directing the travel of officers contemplate the payment of mileage, what points must they specify?

- A. 1. They must state the specific duty enjoined.
2. They must state that "the travel directed is necessary in the military service." (71)

Q. When officers are summoned before a civil court as witnesses, what action is taken with respect to their transportation?

- A. 1. They receive necessary expenses incurred in travel and attendance from the civil authorities. Mileage or travel allowances will not be paid by the War Department.
2. If absolutely necessary transportation in kind may be furnished by the Quartermaster and the account forwarded to the War Department for presentation to the Department of Justice for payment. (75)

Q. What rules govern the retirement of an officer of the Army?

- A. 1. When an officer reaches the age of 64 years he is retired by operation of law.
2. When he reaches the age of 62 years he may be retired by order of the President.
3. He may be retired on his own request after having completed more than 30 years' service.
4. He may be retired at any time on account of disability or incapacity to perform the duties of his grade. (76 to 78)

Q. What rules govern the resignation of an officer of the Army?

- A. 1. The resignation tendered by an officer will be forwarded by his commanding officer, through military channels, to the War Department for the consideration of the President. Until the resignation is duly accepted the officer will not be considered out of the service.
2. A resignation tendered under charges

will be forwarded, accompanied by a report in the case and, if practicable, by a copy of the charges.

3. Leave of absence will not be granted on tender of resignation unless the resignation is unconditional and immediate. (79 to 82)

Q. May an officer on the active list of the Army hold a civil office?

- A. An officer of the Army on the active list who accepts or exercises the functions of a civil office contrary to law, thereby ceases to be an officer of the Army. An officer on the active list cannot lawfully accept or hold **any** office created by State or municipal authority, whether in State military organizations or otherwise. (82)

Q. What report is made on the death of an officer of the Army?

- A. 1. The place, cause, day and hour will be reported without delay by telegraph, by the immediate commanding officer, to the Adjutant-General of the Army, to the brigade commander, to the Coast artillery district commander, and to the Department commander.
2. If the officer is on the active list of the Army the report will show whether or not his death was from wounds or disease contracted in line of duty, or contracted as the result of his own misconduct. (83)

Q. What action is taken with respect to the public property and funds for which a deceased officer was accountable or responsible?

- A. 1. On the death of an officer in charge of public property or funds, his commanding officer will appoint a board of officers, three when practicable, which will inventory the same and make the customary returns therefor, stating accurately the amounts and condition.
2. These the commanding officer will forward to the chiefs of bureaus to which the property or funds pertain, and he will designate an officer to take charge of such property or funds until orders are received from the proper authority.
3. Cash on hand may be invoiced by the board to the deceased officer's successor, but balances to his credit with the treasurer, an assistant treasurer, or a designated depositary, or a fiscal agent of the United States, over and above his

outstanding checks, will be deposited to the credit of the Treasurer of the United States by the chiefs of bureaus when the board has reported to the bureaus the balances over and above such checks. (86)

Q. What is the personnel of the Post Non-commissioned Staff of the Army?

- A. 1. Ordnance Sergeants.
2. Quartermaster Sergeants, Quartermaster Corps. (98)

Q. By whom are members of the Post Non-commissioned Staff appointed?

- A. They are appointed by the Secretary of War. (98)

Q. What qualifications must an enlisted man possess for appointment to the Post Noncommissioned Staff?

- A. 1. Ordnance Sergeants. From sergeants of the line who have served at least eight years in the Army, including four years as noncommissioned officers, and who are less than 45 years of age.
2. Quartermaster Sergeants, Quartermaster Corps. From competent noncommissioned officers of the Army who have served therein at least five years, three years of such service having been rendered as noncommissioned officers, and whose character and education shall fit them to take charge of public property, and to act as clerks and assistants to the proper officers of the Army in charge of public property.
3. Each class of these noncommissioned officers is required to pass a physical and mental examination prior to appointment. (98)

Q. When an enlisted man is detached from his company, what document accompanies him?

- A. A Descriptive List will be prepared and forwarded to his new commanding officer. (104)

Q. Is the Descriptive List ordinarily intrusted to the soldier?

- A. No. When it can be avoided the Descriptive List will not be intrusted to the soldier but to an officer or noncommissioned officer under whose charge he may be, or it may be forwarded by mail so as to arrive at the soldier's destination at or prior to the time he is scheduled to arrive. (94)

NOTE.—At this point it is considered advisable to explain the normal procedure in

transforming a man from his status of citizen to that of a soldier in the Army of the United States and to outline the administrative features of such transformation.

Any male citizen of the United States or any person who has legally declared his intention to become a citizen, if above the age of 21 and under the age of 35 years, ablebodied, free from disease, of good character and temperate habits, may be accepted for enlistment in the Army.

The citizen applies to the recruiting officer at any one of the numerous recruiting stations distributed throughout the country, for enlistment. After ascertaining that he fulfills the requirements as set forth in the preceding paragraph, the nature of the service and terms of enlistment are fully explained, any questions that he may bring up are answered, and before the enlistment blanks are filled in, the recruiting officer will read to him and offer for his signature the "Declaration of Applicant" to enlist in the Army of the United States, as follows:

DECLARATION OF APPLICANT.

I, _____ desiring to enlist in the Army of the United States for the term of seven years, do declare that I have neither wife nor child; that I am of the legal age to enlist and believe myself to be physically qualified to perform the duties of an ablebodied soldier; and I do further declare that I am of good habits and character in all respects and have never been discharged from the United States service (Army or Navy) or any other service on account of disability or through sentence of either a civil or military court, nor discharged from any service, civil or military, except with good character, and for the reasons given by me to the recruiting officer prior to this enlistment. (Signed and witnessed.)

After this declaration has been signed the recruiting officer conducts a physical examination of the applicant sufficient in scope to detect any radical defects that would disqualify him for active service.

Having passed the physical examination the applicant is forwarded to one of the general Recruit Depots, of which one is located at each of the following points: Fort Slocum, N. Y.; Columbia Barracks, Ohio; Jefferson Barracks, Mo.; Fort Logan, Colo.; and Angel Island, Cal.

Before leaving the recruiting station the applicant's descriptive and assignment card

(generally known and referred to throughout the service as the "D and A Card") is begun. This card follows the recruit throughout his service until he joins his regular organization (Company, troop or battery), when it is disposed of as will be explained later.

Within a reasonable time after arrival at the recruit depot the applicant is given a critical physical examination by a Medical Officer of the Army, which, if he passes satisfactorily, is followed by his being sworn into the service of the United States; the making of his identification record, consisting of a front view and profile photograph and a minute description of all permanent or indelible marks on his body. If necessary he is then vaccinated against small-pox and the first injection of the typhoid prophylaxis is administered. His D and A Card is then completed down to the line "vaccinated" on the front of the card.

The recruit is retained at the depot for a variable length of time, where he is given such elementary instruction as is practicable in the time available, and is then forwarded to a regular organization. At this time his D and A Card is completed to include the signature of the Adjutant on the back and the card accompanies the recruit to his regiment where it is turned over to his commanding officer.

The man is assigned to a company and the commanding officer completes the D and A Card, showing the company to which assigned, and forwards the original card to the Adjutant-General of the Army.

The Commanding officer causes a true copy of the D and A Card to be prepared, which he furnishes to the company commander of the company to which the recruit has been assigned. The recruit has now joined his regular organization and will thereafter be borne on the rolls and returns thereof.

When a soldier is assigned to an organization the commanding officer of the organization opens a Descriptive List (commonly known in the Army as a D. L.) in his case. The data shown on the D and A Card being used wherever applicable.

The D. L. contains a complete record of the soldier's service and his accounts with the government. In it are entered:

1. His name, rank and organization.
2. Name and address of the person to be notified in case of emergency.

3. Date and place of enlistment.
4. Place of birth and age at enlistment.
5. Description, etc., as shown on D and A Card.
6. A record of his previous military service.
7. A record of his present service.
8. Record of following facts: Date of appointment and grade to which appointed in case of noncommissioned officer; marksmanship or gunnery; furloughs granted; battles participated in; record of Medal of Honor or Certificate of Merit that has been granted; date of vaccination, with result; date of completion of typhoid prophylaxis.
9. A complete record of convictions by court martial.
10. The number of the enlistment period in which the soldier is serving.
11. A record of allotments made by the soldier and the date to which same have been paid.
12. Record of the soldier's deposits, showing date of deposit, amount deposited and name of paymaster with whom deposit was made.
13. Complete statement of the soldier's clothing account with the Government, showing date of each issue of clothing, the money value of same and signature of soldier and witnessing officer; statement showing the clothing settlements that have been made between the soldier and government during the continuance of the Descriptive List.
14. Any additional remarks pertaining to the soldier's service and accounts.
15. When the soldier is separated from his company for any reason whatsoever his descriptive list will be completed up to the date of such separation by the entering of proper notations under the headings marked with a star on the Descriptive List blank. These notations include:
 - (a) Excellence in horsemanship.
 - (b) Physical condition at date of separation from the company.
 - (c) Character.
 - (d) Character of Service. (Honest and faithful or otherwise.)
 - (e) Date to which soldier was last paid and name of paymaster making the payment.
 - (f) Amount of money due the soldier or due the United States on account of clothing.
 - (g) Any money due the soldier other than pay.

(h) Any money due the United States to be stopped against the soldier's pay on the next rolls upon which his name appears.

(i) Under remarks, a statement showing the reason for completing the Descriptive List.

16. The Descriptive List thus completed is retained as a part of the company records and in case of transfer, or when the soldier does not completely sever his connection with the military service, a copy of the same, signed by the company commander, is forwarded to the new commanding officer of the soldier.

Q. What is a furlough?

A. A furlough is a permit in writing, authorizing a soldier to be absent from duty for a definite period of time specified therein and authorizing him to go to a definite place. (106)

Q. Who may grant furloughs to soldiers?

A. Any commanding officer. (106)

Q. For what periods are the several commanding officers authorized to grant furloughs?

- A. 1. Territorial Department commanders, Brigade, district and post commanders, and chief of the War Department bureaus, for three months.
2. General Hospital, general supply depot, mine planter and regimental commanders for one month.
3. A furlough for a period exceeding three months will not be granted except by the War Department, and then only under the most unusual and urgent circumstances. (106)

Q. What general rules govern the granting of furloughs to enlisted men and the limitations placed on them?

A. A furlough will not be granted to an enlisted man about to be discharged.

Not more than five per cent of a command may be on furlough at the same time.

An enlisted man on furlough will not leave the United States to go beyond the sea unless the furlough includes permission to do so.

The limits prescribed will be stated in the furlough, and if exceeded may be revoked and the soldier arrested.

Furloughs granted to enlisted men serving beyond the continental limits of the United States, for the purpose of re-

turning thereto, will take effect on the date they reach the United States.

Soldiers on furlough will not take with them their arms or accoutrements.

No payments will be made to soldiers on furlough, without authority from the War Department. (106 to 111)

Q. What constitutes the offense of desertion on the part of a soldier?

A. Absenting himself without leave with the intention of not returning to the military service. (116)

Q. After what period of absence is an enlisted man reported a deserter?

A. No man will be reported a deserter until after the expiration of ten days (should he remain away that length of time) unless the company commander has reason to believe that the absentee does not intend to return. Should the soldier not return or not be apprehended within the time specified, his desertion will date from the commencement of his unauthorized absence. (132)

Q. What action is taken by the company commander when a soldier deserts?

A. 1. Ascertain whether or not any government property has been lost in consequence of the desertion.

2. Secure the clothing and effects abandoned by the deserter.

3. Prepare a number of deserters' Descriptive Lists on the special blank provided for that purpose and forward them to the commanding officer. (116)

Q. What action is taken with respect to property lost in consequence of a desertion?

A. It will be surveyed as in the ordinary case of property lost or destroyed and the money value of same will be charged against the deserter on the next pay rolls of the company.

NOTE.—At this point it is deemed appropriate to explain the action taken with respect to Government property lost or destroyed. When property is lost or destroyed the officer accountable or responsible therefor prepares a "Report of Survey," in triplicate, upon which are enumerated the articles of property so lost or destroyed, the money value of same, and a notation citing the circumstances attending such loss or destruction. The affidavits and certificates on page 2 are accomplished and the blanks submitted to the commanding officer for further action.

This report is then forwarded to the Survey Officer who makes an investigation of the circumstances attending the loss or destruction of the property and makes a finding and recommendation with respect to it. When this finding and recommendation are approved by the commanding officer, the papers are complete and are disposed of as follows:

Two copies are forwarded to the officer who is accountable for the property, for use by him as vouchers to his return.

One copy is forwarded to Department Headquarters for administrative examination and file.

When property pertaining to more than one supply department is lost through desertion, survey reports covering each class of property have to be made out as indicated. (116)

Q. What disposition is made of the clothing abandoned by a deserter?

A. The company or detachment commander turns over the clothing abandoned by a deserter to the quartermaster, with a certificate showing its condition and the name of the deserter to whom it belonged.

The body of this certificate would read as follows:

"I hereby certify that the articles of clothing enumerated below, in the condition noted, were abandoned by Private John Doe, who deserted from Company C, 45th Infantry, on the 16th day of October, 1916." (117)

No.	Article.	Condition.
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Q. What disposition is made of the personal effects other than clothing, abandoned by a deserter?

A. All personal effects of a deserter will be disposed of as in the case of the unclaimed effects of a deceased soldier—i.e., they will be sold by a council of administration and the proceeds of the sale deposited with a quartermaster. (See post.) (117)

Q. What disposition is made of the Descriptive Lists of Deserters?

A. They are sent to such marshals, sheriffs, and police officers as the commanding officer may deem proper; also, to the officer in charge of the recruiting station at or near the place where the deserter was accepted for enlistment. (118)

Navy Operations

2. *"In the event a soldier has been captured and condemned to a death sentence, the record of SBN will be held by the legal officer or civilian for the apprehension and delivered to the proper military authorities at a military post or a deserter prior to his military service."*
3. *"When a soldier is captured or apprehended he is condemned to a death sentence, this record of his apprehension and trial is taken to the commanding commander commandant."*
4. The following papers will be forwarded to the commanding officer of the DOR where the deserter is received:
1. Discharge Letter
 2. Charge and specification presented against the deserter.
 3. A list of witnesses with a brief statement of the evidence to be adduced from each. 12
5. *"NOTICE OF DISCHARGE"*
6. When a soldier deserts the service of the United States and remains absent in connection for two years after the date of his discharge or separation from the service or during the period of time for which he remained in the service he desertion is cutting in the Service of Disobedience and he is given a "Deserter's Discharge" which is given to him in discharge of service and that of desertion. In order to obtain the deserter's release the following form is to be used:
1. Two years may have elapsed since the date of which the deserter would have received his discharge from the service had he remained thereafter and served the full time for which he enlisted.
2. He must have legal papers in the United States during the period of time.
3. He must be in sufficient setting with the right name of the man if the case.
4. He must add to the above information his name and rank of the man if the case.
5. *"NOTICE OF DISCHARGE"* is sent to the commanding officer of the DOR.
6. *"NOTICE OF DISCHARGE"* is sent to the commanding officer of the DOR.
7. The order will be signed by the commanding officer.
8. A report accompanied by his descriptive list will be forwarded to the Adjutant General of the Army.
9. He will be dropped from the rolls of the Army upon receipt of authority to do so from the War Department.
10. It will be turned over to the representatives of the Navy Department upon receipt of instructions to that effect. 12
11. *"NOTICE OF DISCHARGE"* governing the commanding officer's discharge from the Army.
12. He must have served for a period of 30 years in the Army, Navy or Marine Corps or in all of them.
13. Service as a commissioned officer in the United States Cavalry organized in 1898 and 1901 or in the First Cavalry Provisional Regiments or Infantry or in the Philippine Forces will suffice but the purpose of recruitment as an enlisted man as though recruited as such.
14. Enlist in war service with the Army in the field or with the Navy or Marine Corps if active service either as volunteer or regular during the War in the Philippines and actual service in China, Cuba, the Philippine Islands and Islands of Guam, Alaska or Panama or until April 20, 1904 in Formosa will be enlisted men enlisting prior to August 24, 1901 be required in computing the 30 years service requirement to ensure of enlisted men to be secured.
15. The actual service in any of the organizations above will be considered as beginning on the date of the soldier's arrival at the first port of call and ending on the date of his departure from the last port of call abroad.
16. The date during which a soldier may be discharged while in any of the places named will not be included in date of continuing his service for recruitment.
17. *"NOTICE OF DISCHARGE"* is sent to the commanding officer of the DOR.
18. The commanding officer of the DOR will forward this with a memorandum crossing the authority of the general and all other officers that have a right to the date of the transfer of the order.

2. He will forward to the Adjutant-General of the Army a Descriptive List (in duplicate), noting thereon the fact that a final statement has been given, the re-enlistment or continuous service pay per month for which the soldier was last mustered and his post-office address for the next 30 days.
3. The Descriptive List will bear the soldier's signature, or, if he cannot write, a statement to that effect.
4. The final statement and Descriptive List must state the date to which subsistence has been furnished, also whether subsistence while traveling home has been furnished and, if so, for what dates.
5. A discharge certificate will not be given but the soldier will be dropped from the rolls of his command with appropriate explanatory remarks.
6. The Quartermaster Corps will be notified and furnished with the soldier's signature, as in the case of discharge. (See post.) (135)
- Q. What are the pay and allowances of a retired soldier?**
- A. 1. Three-fourths of the monthly pay allowed by law for the grade held by him when retired.
2. In addition to the monthly pay he is entitled to \$9.50 per month for commutation of clothing and rations and \$6.25 per month in lieu of quarters, fuel and light. (137)
3. Under what circumstances may a soldier be discharged prior to the expiration of his term of service?
- A. 1. By order of the President or Secretary of War.
2. By the sentence of a General Court Martial or Military Commission.
3. By direction of the commander of a territorial department or mobilized division:
- a. By purchase, under the rules governing such discharge
 - b. On account of disability
 - c. On account of a sentence to imprisonment given by a civil court, whether suspended or not
 - d. Deserters found unfit for military service
 - e. When the soldier is recommended for discharge after examination by a board of officers and found to be unfit for further military service. (Part 14th) see Post
4. In compliance with an order of one of the United States Courts or a justice or a judge thereof, or a writ of habeas corpus. (139)
5. Describe the procedure of settling the soldier's accounts with the Government when he is discharged, furloughed and transferred to the Reserve.
- A. 1. The company commander closes the accounts on his Descriptive List and furnishes the soldier with a final statement in duplicate, which contains all information necessary for a final settlement of the accounts between the government and the soldier.
2. The soldier presents this final statement to the quartermaster along with the certificate of discharge or order transferring and furloughing him to the reserve, as the case may be.
3. Prior to the soldier's presenting the final statement for payment the company commander will have notified the quartermaster in his own handwriting of the fact that such final statement will be issued, giving in general the information contained therein and having the soldier's signature inscribed thereon.
4. The Quartermaster computes the amount due the soldier on the final statement and pays the same by check or cash, using the final statement as a voucher to his money accounts.
6. Under what circumstances are soldiers discharged or furloughed to the reserve not furnished with Final Statements?
- A. A final statement will not be furnished to a soldier who has forfeited all pay and allowances and has no deposits due him. (140)
7. What action is taken when a soldier is not furnished final statements on his discharge or furlough to the reserve?
- A. He is given a full statement in writing of the reasons why such final statement is not furnished. (140)
8. What rules govern the entries to be made on a final statement with respect to the reasons for the soldier's separation from active service?

- A. 1. When the soldier has completed his term of service the notation is made: "Expiration of Term of Service." 2. When the soldier is furloughed and transferred to the Army reserve the notation is made: "Furloughed and transferred to the Army Reserve." 3. When the discharge is made on Certificate of Disability the ascertained disability, as recited in the certificate, must be given in the final statement as the reason or cause for discharge. 4. Whenever a soldier is discharged prior to the expiration of his term of service, the actual cause of discharge will be stated in the order directing the discharge and the same will be fully stated on the discharge certificate and final statement. Where the discharge is ordered on account of the soldier's misconduct, or unfitness for the service, physical or in character, due to the soldier's misconduct, a statement to that effect will be set forth in the order and will be noted on the discharge certificate and final statement. (140)

Q. Under what circumstances may a soldier be held in the service to make up time lost?

- A. 1. He may be held to make up time lost on account of absence without leave. 2. He may be held to make up time lost by absence from duty on account of his own misconduct; sickness contracted, "not in line of duty"; absence from duty while in confinement, awaiting trial, awaiting the result of trial and while serving sentence after trial and conviction for an offense. (142)

Q. On what day is the soldier furloughed and transferred to the Army Reserve?

- A. On the last day of his period of active service—*i.e.*, if enlisted on the second day of the month his term will expire on the first day of the same month in the last year of his term with the colors. (Note: Under existing laws a soldier may be furloughed and transferred to the Reserve at any time after having completed a year's service.) (143)

Q. When a soldier is unfitted for military service what action is taken?

- A. 1. If he is found to be unfitted on account of physical disability he may be dis-

charged on Certificate of Disability, after thorough examination by a medical officer.

2. If he is found to be inapt, or does not possess the required degree of adaptability for the military service, or gives evidence of habits or traits of character which serve to render his retention in the service undesirable or is disqualified for service, physically or in character, through his own misconduct, his company commander will report the facts to the commanding officer. The commanding officer convenes a board of officers, three when practicable, to determine whether the soldier should be discharged prior to the expiration of his term of enlistment.
 3. The sessions of this board are conducted in general after the manner of a special court martial. The soldier is authorized to challenge members of the board for cause, to be present throughout the conduct of the investigation, to have witnesses testify in his behalf and to make a statement in his own behalf.
 4. When the findings of the board indicate disqualification through physical disability, the proceedings are accompanied by a certificate of disability. (See Post.)
 5. If discharge is recommended by the board, the proceedings, if approved by the convening authority, will be forwarded for final action to the officer exercising general court martial jurisdiction over the command. The proceedings are then forwarded to the Adjutant-General of the Army for file. (159)

Q. What are the several classes of discharge blanks?

- A. 1. The blank for honorable discharge.
 2. The blank for discharge.
 3. The blank for dishonorable discharge (yellow). (150)

Q. Under what circumstances are the several classes of discharge blanks used?

- A. 1. The blank for honorable discharge, when the soldier's conduct has been such as to warrant his re-enlistment and his service has been honest and faithful.

2. The blank for dishonorable discharge, when the soldier has been dishonorably discharged by sentence of a court martial or military commission.
3. The blank for discharge when the soldier is discharged except as specified under sections 1 and 2 above. (150)

Q. When a soldier is discharged and is considered suitable material for a volunteer officer, what action is taken?

A. When in the opinion of the company commander, the circumstances warrant it, notation will be made, under remarks on the back of the discharge certificate, that the soldier is fitted for a commission in the United States Volunteers, and will give his special qualifications. (149)

Q. What action is taken when a discharge certificate is lost or destroyed?

- A. 1. A discharge certificate will not be made in duplicate and under no circumstances will it be duplicated.
2. Upon satisfactory proof of loss or destruction without the fault of the person entitled to it, the War Department may issue to such a person a "Certificate of Service," showing the date of enlistment in and discharge from the Army and the character given on the discharge certificate.
3. An application for certificate in lieu of a lost or destroyed discharge certificate will be forwarded directly to the Adjutant-General of the Army by the soldier's immediate commander. (151)

Q. What do you understand by the term "partial Descriptive List"?

A. Upon the discharge of a soldier, who is absent from his regular organization, and in whose case a Descriptive List was furnished, a "partial Descriptive List," giving date, place and cause of discharge, the character given on discharge certificate, whether service was honest and faithful, and containing only such other data as pertain to the military status of the soldier and his accounts while absent, will be furnished the soldier's organization commander by the officer who made the discharge. (154)

Q. What is a "Notification of Discharge"?

A. It is a document furnished by the officer making the discharge in the case of an enlisted man discharged at a place

where there is no available office provided with funds to make payment of Final Statements. (155)

Q. What is the object of the "Notification of Discharge"?

A. It is merely an advance statement of the soldier's accounts as they will appear on his Final Statements, given to the officer who cashes the Final Statements, as a check against same and to prevent fraud or making a payment of Final Statements that may have been altered after they are given to the soldier. (The Notification of Discharge is made out in the handwriting of the officer who is to sign the Final Statement. It is mailed to the quartermaster who is to pay the Final Statement at least one week prior to the date when it is expected that the Final Statements will be presented for payment. It contains the date of last payment to the soldier; his credits and debits, in words and figures; and all other data essential for proper payment. It has inscribed thereon the soldier's signature or in case he cannot write a statement to that effect. When the Final Statements are to be paid at the same place where they are executed the Notification is not required.) (155)

Q. Who is held responsible for overpayments caused by erroneous entries on Final Statements?

A. The officer who signs the Final Statement is held responsible for overpayments due to erroneous entries, and will be called upon to reimburse the Government for such overpayments. (155)

Q. What is the effect of a dishonorable discharge?

A. A dishonorable discharge from the service is a complete expulsion from the Army and covers all unexpired enlistments. (156)

Q. When a soldier is found to be permanently unfit for military service because of wounds or disease, what action is taken?

A. He should, if practicable, be discharged on "Certificate of Disability" before the expiration of the term of service in which the disability was incurred. (Certificates of Disability are not made in duplicate and great care has to be

taken to prevent their loss or destruction.) (159)

Q. What duties devolve upon the Company Commander on the death of a soldier of his organization?

- A. 1. In the case of the death of any soldier, the commanding officer of his troop, battery or company shall immediately secure all his effects then in camp or quarters, and shall, in the presence of two other officers, make an inventory thereof, which he shall transmit to the office of the Department of War. (Old Article of War.) (This inventory of effects is made in triplicate and all three copies have to be originals. Two are forwarded and the third retained with the company records.)
2. Notify the nearest relative of the fact of death. (Note: The name and address of the person to be notified in case of emergency (death) will be found on the soldier's Descriptive List. This notification will be made by telegraph and at the same time a request made that reply be forwarded by telegraph as to whether or not it is desired to have the remains shipped home at Government expense and if shipment home is desired the destination and the name of the person to whom the remains are to be consigned.)
3. Have the remains prepared for shipment or burial. (When the death occurs in a military hospital, the surgeon in charge is responsible that the remains are prepared for shipment or burial as the case may be and his responsibility therefor does not cease until the remains are turned over to the quartermaster for shipment or interment.)
4. Make all the arrangements for the funeral. Have an order from regimental headquarters issued; make arrangements for the escort, transportation and the ceremony.
5. The following report and papers are sent to the Adjutant-General of the Army:

- (a) A report of the death of the soldier.
- (b) A report from the medical officer, if there be one having a knowledge of the facts, if not, from the soldier's immediate

commanding officer, as to the cause of death; whether or not it was from wounds or disease contracted in line of duty; whether or not it was from wounds or disease, the result of his own misconduct.

- (c) Duplicates of the inventory of effects.
- (d) A Final Statement (single copy). (162 to 167)

Q. What becomes of the effects of a deceased soldier?

- A. 1. Officers charged with the care and custody of the effects of deceased soldiers are required to turn them over to the legal representatives of the deceased. (Note: In case the effects are turned over to the legal representatives as indicated the officer will take a receipt for same in duplicate and forward it to the Adjutant-General of the Army. These receipts should correspond exactly with the inventory of effects that has been previously forwarded. In case there is any discrepancy in the items thereon a detailed and exhaustive explanation will be required.)
2. Should the effects not be claimed within a reasonable time they will be sold by a council of administration under the authority of the post commander, and the proceeds transferred to the soldier's immediate commander, by whom they will be deposited with a Quartermaster to the credit of the United States. Duplicate receipts will be taken, one of which will be forwarded direct to the Adjutant-General of the Army. (Note: When the proceedings of the council of administration are prepared they should show in the body of same a list of all articles entered on the inventory of effects, previously prepared, and account for the disposition of each and every article. Any discrepancy in these lists which leaves an article unaccounted for will result in endless correspondence with the Adjutant-General's Office. The duplicate of the receipt will be filed with the appropriate records in the company. A copy of the proceedings of the council of administration containing a duly certified list of the proceeds will be forwarded with

the quartermaster's receipt for the money deposited.)

3. There is no authority for officers to pay the debts of deceased soldiers. (The accounts are settled by the Auditor for the War Department.)
4. Watches, trinkets, personal papers, and keepsakes will not be sold, but will be labeled with the name, rank and organization of the owner and sent directly to the Adjutant-General of the Army to be forwarded to the Auditor for the War Department for the benefit of those legally entitled to them. (163)

Q. What report is made of the disposition of the remains of a deceased soldier?

- A. The officer under whose direction the disposition of the remains is made will make a full report thereof to the Adjutant-General of the Army. (167)

Q. Distinguish between the terms "Extra Duty" and "Special Duty."

- A. Enlisted men detailed to perform specific services which remove them temporarily from the ordinary duty roster of the company to which they belong will be reported on "Extra Duty" if receiving increased compensation therefor, otherwise on "Special Duty." (168)

Q. What are the limitations placed on enlisted men being detailed on extra duty?

- A. 1. They will not be placed on extra duty without the sanction of the department commander, except at posts commanded by General Officers.
2. They will not be employed on extra duty in time of war, nor in time of peace for labor in camp or garrison which can properly be performed by fatigue parties.
3. Duty of a military character must be performed without extra compensation.
4. Except in case of emergency, a non-commissioned officer will not be detailed on extra duty without authority from the department commander or the General Officer commanding a post or in other cases by the Secretary of War. A noncommissioned officer will not be detailed on any duty inconsistent with his rank and position in the military service.
5. Enlisted men in the several staff departments, including members of the Post noncommissioned staff, will not

be detailed on extra duty except by the authority of the War Department. They are not entitled to extra duty pay for services rendered in their respective departments.

6. Company mechanics, artificers, farriers, horseshoers, saddlers and wagoners will not be detailed on extra duty.
7. Extra duty men will be required to attend as many drill inspections and other duties as commanding officers deem practicable, unless specifically excused by higher authority.
8. Extra duty men will be held to such hours of labor as may be expedient and necessary; but, except in case of urgent necessity, as in military operations, eight hours will be considered a day's work. For all hours employed beyond that number, the soldier will receive additional compensation—the extra hours being computed as fractions of a day of eight hours' duration. (168 to 176)

Q. What is the rate of Extra Duty pay?

- A. For services as Mess stewards and cooks at recruit depots—Steward: at the rate of 50 cents a day and a share in the remaining money allotted for the purpose from the mess fund. Cooks: 25 cents per day or a share in the \$3 allotted from the mess fund for the payment of cooks.

As helpers to ordnance machinists in the alteration and maintenance of seacoast armament, 50 cents a day.

As clerks in coast fortification offices, switchboard operators, guards at military prisons and all other extra duty services, 35 cents a day. (170)

Q. What organization in the mobile army is the administrative unit?

- A. The regiment.

Q. How is a regiment organized?

- A. 1. A headquarters company, troop or battery.
2. A supply company or troop.
3. A machine-gun company or troop.
4. In the infantry and cavalry, three battalions or squadrons of four companies or troops each; in the artillery, two battalions of three batteries.

*NOTE.—*The headquarters company is commanded by the Regimental adjutant. The supply company by the regimental quartermaster: the machine-

gun company by a captain; a battalion is normally commanded by a major in whose absence the senior captain commands; a company is normally commanded by a captain, in whose absence the senior officer on duty therewith commands. (Ed.)

Q. For what is the battalion commander responsible?

A. A battalion commander is responsible for the instruction, tactical efficiency, and preparedness for war service of the troops of his battalion under his immediate command.

NOTE.—When the designation battalion or company is referred to herein it is also applicable to squadrons of cavalry, troops of cavalry and batteries of field artillery, respectively. (245)

Q. By whom are field officers assigned to stations?

A. Field officers of the mobile army are assigned to stations by the department commander. (247)

Q. What are the duties of the adjutant of a regiment?

A. 1. He commands the Headquarters Company.

2. Under the direction of the commanding officer he will have charge of the various rosters of service; he will make, publish and verify all details, keep the records of the regiment and perform such military duties with troops as are required by regulations. Through him the commanding officer communicates with the officers and men of his command.

3. The adjutant should be courteous to and on friendly terms with the officers of the command he represents, and will avoid all discussions of the orders or military conduct of his superiors.

4. He should inform himself on all points of military usage and etiquette, and on proper occasions aid with his advice and experience the subalterns of the regiment, especially those just entering the service.

5. He will endeavor at all times to exert the influence belonging to his station in sustaining the reputation, discipline and harmony of the command. (251)

Q. What books of record, reports and papers will be kept in each regiment?

A. 1. A correspondence book with the document file pertaining thereto.

2. A regimental fund book. (The regimental fund consists of all monies accruing to the regiment by contribution, percentage from band engagements, and percentage from Post Exchange dividends. This money is expended for the benefit of the regiment by the adjutant, under the direction of the regimental commander.)

3. A file of regimental orders, all orders, instructions and circulars from higher authority; copies of monthly returns, and other returns and rolls pertaining to the regiment. (258)

Q. What is the rule governing the detail of captains on detached service?

A. The detail of captains on detached service away from their arm of the service will be limited, as far as practicable, to those required by law. (265)

Q. For what is the company commander responsible?

A. For the instruction, tactical efficiency and preparedness for war service of his company; for the care and preservation of its equipment and for the proper performance of duties connected with its subsistence, pay, clothing, accounts, reports and returns. (266)

Q. What is the order of succession to command in a company?

A. In the absence of its captain, the command of a company devolves upon the subaltern next in rank who is serving with it, unless otherwise specially directed. (267)

Q. What is the rule regarding the selection and the standing of noncommissioned officers in a company?

A. 1. Noncommissioned officers will be carefully selected and instructed.

2. They will always be supported by company commanders in the proper performance of their duties.

3. They will not be detailed for any duty or permitted to engage in any occupation inconsistent with their rank and position. (Note in this connection non-commissioned officers may not be permitted to engage in occupations such as company barbers, tailors, etc.)

4. Officers will be cautious in reprobating them in the presence or hearing of private soldiers. (270)

Q. By whom are noncommissioned officers appointed?

- A. 1. By regimental commanders on the recommendation of company and battalion commanders.
2. When a battalion is stationed away from regimental headquarters the battalion noncommissioned staff officers may be appointed by the battalion commander.
3. In the coast artillery corps companies noncommissioned officers are appointed by coast defense commanders on the recommendation of company commanders.
4. The captain selects the first sergeant, quartermaster sergeant, mess sergeants and stable sergeants from the sergeants of his company. (271)

Q. What is a lance corporal?

- A. A private who has been given a temporary appointment to the grade of noncommissioned officer, for the purpose of testing capacity for the duties that would devolve upon him as a regularly appointed noncommissioned officer. They are not given a warrant but are obeyed and respected as corporals. (272)

Q. How many lance corporals may there be in a company?

- A. No company may have more than one lance corporal at a time, unless there are noncommissioned officers absent by authority, during which absences there may be one for each absentee. (272)

Q. What are the rules with respect to the warrants of noncommissioned officers?

- A. 1. Each noncommissioned officer will be furnished with a certificate or warrant of his rank, signed by the regimental commander and countersigned by the adjutant.
2. A separate warrant as first sergeant, quartermaster sergeant or stable sergeant will not be issued.
3. A warrant issued to a noncommissioned officer is his personal property.
4. Warrants need not be renewed in case of re-enlistment in the same company, if re-enlistment is made the day fol-

lowing that of discharge, but unless otherwise ordered by the regimental commander or coast defense commander, on the recommendation of the company commander, will remain in force until vacated by promotion or reduction, each re-enlistment and continuance to be noted on the warrant by the company commander.

5. The warrants for noncommissioned officers of the coast artillery corps companies will be signed by the coast defense commander and countersigned by the coast defense adjutant. (274)

Q. Under what circumstances may a noncommissioned officer be reduced to the ranks?

- A. 1. By sentence of a court martial.
2. On the recommendation of the company commander, by order of the commander having final authority to appoint such noncommissioned officer.
3. On the recommendation of the company commander by a battalion commander or senior officer on duty with the detachment of a regiment serving in another department or at such distance from regimental headquarters that more than 15 days are required for correspondence to pass back and forth.

NOTE.—No commissioned officer may be reduced because of absence on account of sickness or injury contracted in line of duty. The transfer of a noncommissioned officer from one company to another carries with it reduction to the ranks unless otherwise specified in the order by authority competent to issue a new warrant. When a noncommissioned officer, while in arrest or confinement, is reduced by sentence of a court martial, the date of the order publishing the sentence is the date of reduction. In all other cases the reduction takes effect on the date of the receipt of the order at the soldier's station. The desertion of a noncommissioned officer vacates his position from the date of his unauthorized absence. (276)

ADMINISTRATION—*Concluded* (February, 1917)

Q. What restrictions govern the detail of a soldier for duty as company tailor?

- A. 1. He may be relieved from ordinary military duty while so detailed.
- 2. The post exchange council will fix the rates to be charged.
- 3. Accounts due the tailor may, if necessary, be deducted from the soldiers' pay and turned over to him. (279)
- 4. A noncommissioned officer may not be detailed.

Q. What books of record, reports and papers are kept in each company?

- A. 1. A Correspondence Book and Document File in connection therewith. When correspondence is sent out from or received at the company office and it is desired to have a complete record of same, it is entered in the correspondence book and either the original or a copy of the document placed in the document file. Only a synopsis of the contents is entered in the correspondence book and the entry is indexed and cross indexed.
- 2. A Sick Report. Immediately after reveille each morning, all soldiers desiring to receive medical treatment, report to the orderly room and their names are entered on the sick report book. At sick call, the noncommissioned officer in charge of quarters conducts the sick to the hospital where he presents the sick report to the medical officer who in turn makes such examination of the men and prescribes such treatment as may be required. The surgeon makes entry in the sick report indicating whether or not the soldier is capable of performing duty, in which case he either marks him "hosp," "quarters," or "duty." In case he is marked other than duty, he is carried on the

morning report as "sick." A soldier may have his name entered on the sick report at any time that he may become ill during the day, and the same procedure obtains.

- 3. A Morning Report. Immediately after the sick report has been returned from the hospital the First Sergeant makes out his morning report and has it ready for the company commander's signature. The morning report indicates the status of the company for duty or absence from duty. It is usually submitted to headquarters after the tactical work for the forenoon has been completed. From it, the consolidated morning report of the command is made up. The morning report shows the number of officers and enlisted men of the various grades in the company for duty; the number on extra or special duty; the number present sick; the number in arrest or confinement, and the number absent. In mounted commands the number of horses and mules is shown, together with their condition, serviceable or otherwise. On the opposite page, under the heading "remarks," explanation is made of any fact that makes a change in the figures of the report from those of the previous day. Ruled columns are provided for making a record of the ration and forage additions and deductions incident to men or animals joining or leaving the command. In making out the morning report the principal rule to be observed is that "every change in the figures of the previous day's report must be explained by an appropriate remark under the heading of remarks." By this means, the figures may be readily checked.

4. A file of Descriptive Cards of public animals, kept in organizations supplied with public animals.
5. A Company Council Book. This is a ledger in which the account of the company fund is kept. This will be explained in detail later.
6. A Record of Individual Property responsibility of enlisted men. This is a loose-leaf book, each page of which contains a list of all government property in the hands of one enlisted man. A sheet for each soldier is prepared and he is required to receipt for all property as he receives it. The quartermaster property is entered on one side of the sheet and the ordnance property on the other.
7. A Record of Punishments awarded by the company commander. Company commanders are not required to bring every dereliction of duty to trial by court-martial. They endeavor to prevent a recurrence of an offence by withholding privileges and taking such steps as may be necessary to enforce their orders. Company commanders are authorized under the regulations, and subject to the control of the commanding officer of the post, to dispose of cases of derelictions that come under the jurisdiction of summary court-martial by requiring extra tours of fatigue, unless the soldier concerned demands trial. Whenever the company commander avails himself of this authority he is required to enter a record of the offence, and the action taken in the delinquency record of the soldier.
8. A file of Descriptive Lists. (Heretofore explained.)
9. A file of Orders and Instructions received from higher authority and retained copies of rolls, reports and returns required by regulations or orders.
10. Retained copies of all returns of property pertaining to the company and full information respecting all quartermaster and other supplies held on memorandum receipt, showing list of articles, date of receipt, from whom received, and the name of the officer who signed the memorandum receipt therefor; also an account of all articles turned

in, expended, stolen, lost or destroyed. All of this is kept on a loose-leaf system that is very simple. Company commanders are required to have a settlement with the various staff officers from whom they hold property on memorandum receipt, quarterly and when relinquishing command, or when turning over the property to another officer.

11. A Duty Roster. A list of the members of the company and a record of the duty performed by each. This is kept by the First Sergeant of the Company.

NOTE.—The deposit books of soldiers which contain a record of the money deposited by them with the Quartermaster, are usually kept on file in the company orderly room. (280-281)

Q. What inspections are required to be made daily by company commanders?

- A. They are required to make a daily inspection of the men's quarters and the kitchen, giving particular attention to cleanliness and to the proper preparation of food. (283)

Q. What rules govern Saturday Inspection?

- A. 1. Company commanders are required to make a complete inspection of their organization under arms every Saturday.
2. No one will be excused from Saturday inspection except the guard and the sick in hospital.
3. Cavalry and field artillery will habitually be inspected mounted. (283)

Q. Into what subdivisions is the company divided?

- A. The company commander will cause the enlisted men of the company to be numbered and divided into squads, each under the charge of a noncommissioned officer. As far as practicable the men of each squad will be quartered together. (284)

Q. What general rules of personal hygiene and sanitation are required to be observed in each company?

- A. 1. Strict attention will be paid by company commanders to the personal cleanliness of the men and to the police of barracks or tents.
2. The men are required to bathe frequently.
3. In garrison and in the field, when practicable, the men will be required to wash their hands thoroughly after going to

the latrines and before each meal, in order to prevent the transmission of typhoid fever and other diseases through germs taken into the mouth from unclean hands.

4. The hair will be kept short and the beard, if one is worn, kept neatly trimmed.
5. Arms will be kept in arm racks. Accoutrements and sabres will be hung up by the belts. Soiled clothing will be kept in the barrack bag.
6. A thorough police of barracks will precede the Saturday inspection. Chiefs of squads will see that bedding and bunks are overhauled; floors, tables and benches scoured; arms and accoutrements cleaned, and all leather articles polished. (286-287)

Q. What general rules regarding uniform and personal appearance of the soldier are required to be observed in the company?

- A. 1. Chiefs of squads are held responsible for the cleanliness of their men. They will see that those who are to go on duty put their arms, accoutrements and clothing in the best order, and that such as have passes leave the post in the proper uniform.
2. Soldiers will wear the uniform in camp or garrison; when on fatigue, they will wear the suitable fatigue uniform. (288-289)

Q. What are the duties of a company commander with respect to the public property in the possession of the company?

- A. The company commander is required to see that all property in the possession of the company is kept in good order and that missing or damaged articles are duly accounted for. Note: Officers who sign for public property, whether on invoice or on memorandum receipt, are held to a strict accountability and responsibility for same. If it is lost or destroyed and they do not take the required administrative steps in the matter they will eventually have to pay for it out of their private funds. Company commanders are also held responsible for text-books and other official publications issued for the use of their companies. (290)

Q. What rules are required to be observed by enlisted men with respect to the care and preservation of their arms and equipment?

- A. 1. They will not take their arms apart except by permission of a commissioned officer and only in the manner prescribed in the descriptive pamphlet of the arm issued by the Ordnance Department.
 2. The polishing of blued or browned parts of small arms, rebrowning or re-browning, putting any portion of an arm in a fire or removing a receiver from a barrel is prohibited.
 3. The mutilation of any part by filing or otherwise, and attempts to beautify or change the finish, is prohibited.
 4. The use of tompons in small arms is forbidden.
 5. The use of raw linseed oil only is authorized for redressing and the application, for such purpose, of any kind of wax or varnish, including heelball, is strictly prohibited. The soldier can produce a fine finish on the wood parts of his rifle by the application of raw linseed oil and "elbow grease." In order to set this finish soldiers sometimes apply one or more coats of alcohol. This transforms the oil that has been rubbed into the stock, into a varnish and ruins all the work that has been done on the piece.
 6. It is forbidden to use any dressing or polishing material on the leather accoutrements or equipments of the soldier, the horse equipments for cavalry, or the artillery harness, except the preparations supplied for that purpose by the Ordnance Department. (292)
- Q. What are the duties of a company commander with respect to the cooking and messing of his men?*
- A. 1. He will supervise the messing and cooking of food for his men.
 2. He will see that his company is provided with at least two copies of the manual for Army Cooks.
 3. He will see that suitable men in sufficient numbers are fully instructed in managing and cooking the ration in the field.
 4. He will see that necessary utensils and implements, in serviceable condi-

tion for cooking, both in garrison and in the field, are always on hand, together with the field mess furniture for each man. (296)

Q. What are the general rules for the administration of the company mess?

- A. 1. The kitchen will be placed under the immediate charge of a noncommissioned officer, who will be held responsible for its condition and for the proper use of rations.
2. No one, except those who go there on duty, or are employed therein, will be allowed to visit or remain in the kitchen.
3. The greatest care will be observed in cleaning and scouring cooking utensils.
4. The food of prisoners will be sent to their places of confinement, when practicable, but post commanders may arrange to send prisoners, under proper guard, to their company messes. (297)

Q. What department furnishes kitchen and tableware and mess furniture?

- A. The Quartermaster's Department. Allowances are announced in orders. Articles broken, lost or damaged are charged to the individuals at fault. (301)

Q. Of what does the field mess furniture of the soldier consist?

- A. It is limited to one tin cup, one knife, one fork, one spoon and such device for cooking as may be furnished by the Ordnance Department. The article now provided for individual cooking is named the meat can. (302)

NOTE.—There is probably no phase of company administration that will pay such large dividends in contentment, happiness and *esprit de corps*, as a good company mess. The company commander who has a poor mess will have a poor company. The personnel of the culinary department of the company consists of the Mess Sergeant, who is detailed from the sergeants of the company; two cooks appointed by the company commander; the necessary number of kitchen police, detailed daily by roster from the privates of the company; a dining room orderly, who is, as a rule, detailed by the month; and a private detailed in the kitchen to learn cooking.

The Mess Sergeant is in charge of the company mess under the supervision of the company commander. He makes the purchases

of supplies and provides the cooks with the materials necessary for the bill of fare for each meal. He sees that the personnel connected with the mess perform their duties properly and that the food, in sufficient quantity and excellent quality, is properly prepared and promptly served at the hour designated.

The company cooks are selected for their special qualifications. They receive the same pay as the sergeants and in many cases receive special training for the work in one of the several schools for army cooks maintained by the War Department.

The kitchen police are charged with the scullery work of the kitchen. They prepare the vegetables, wash and dry the dishes, scrub the kitchen utensils and, when mess is served, act as waiters in the dining room.

The dining room orderly is charged, under the direction of the mess sergeant, with the care of the tableware and table equipment of the mess. He keeps an accurate account of all articles and, when any are broken, makes report of same in order that it may be charged against the person at fault. He sees that the tables are set and that the mess stools are in place at the proper time. He assists in waiting on the table during mess hours and helps to wash and dry the dishes.

The private detailed in the kitchen to learn cooking is one of the necessary utilities of the company. The company commander never knows when he is going to lose a cook from one cause or another and it is absolutely necessary to have available a man who can be put into the kitchen and who is capable of doing the work in a satisfactory manner should one of the cooks be absent. There is only one way to have such a man available and that is to instruct him beforehand. The far-sighted company commander always has several men in the company who have received training in the kitchen.

There are several methods of making the bill of fare in the service. Some company commanders have the mess sergeant make up the bill of fare from day to day, and submit that for the succeeding day, at the morning inspection. The writer has used the following method with success over a period of a number of years: Make up a bill of fare providing for each meal from Monday morning at breakfast until Sunday night at supper. Repeat this bill of fare each week.

Change the items from time to time according to the season and locality, providing such articles of food as the market affords. This method has been carefully worked out and given a thorough trial under varying conditions of the service and has proved eminently successful. If you ever have the opportunity, give it a fair trial. (Ed.)

Q. What are the several councils of administration?

- A. 1. The Post Exchange Council. The Post Exchange Council is composed of the officer in charge of the Post Exchange and the commanding officer of each organization participating in the Exchange. The Council meets at the end of each month and at other times when necessary. They audit the Post Exchange fund, and examine into the methods by which, and the sources from which, such fund has accrued. As a rule this council appoints a committee of its members for consultation with the Post Exchange Officer in the conduct of the business of the Exchange. The Council fixes laundry charges and prices to be charged by company tailors, shoemakers, etc., for making repairs to uniforms.
2. The Company Council. Composed of all officers present for duty with the company. It meets on the last day of each month. It audits the company fund; examines into the sources from which the company fund has accrued; approves the expenditures made from the fund and transacts such other business as may be necessary with respect to the expenditure of the fund.
3. The Aero Squadron Council. Corresponds to the company council and its duties with respect to the fund of the aero squadron are the same. It is composed of the squadron commander, the second ranking officer in the squadron and the squadron mess officer.
4. The Mess Council. Composed of the Mess officer and the commanders of the several organizations participating in a general mess. They audit the mess funds and make recommendations for the conduct of the general mess. The general mess is fast disappearing from the service so that the necessity for the

mess council will soon cease to exist. (316-321)

Q. What action is taken when loss of regimental, company, post exchange or mess funds occurs?

- A. The circumstances must be carefully investigated and reported upon by a board of three officers, who make recommendations to the department commander as to responsibility. (321)

Q. What limitation with respect to the expenditure of company, regimental and mess funds is placed upon their custodians?

- A. The purchase of any article which can be obtained on requisition from a supply department is forbidden, except that, with the approval of the post commander, such articles may be purchased if necessity exists for their immediate use and they are not on hand for issue at the post. (322)

Q. What are the rules governing the transfer of regimental, company and mess funds from one officer to another?

- A. 1. No officer is permitted to take these funds away from the post where the organization to which they pertain is stationed, except for deposit in a bank, or to pay indebtedness.
2. Should the officer who is custodian of any of these funds be absent from the post for a period of from 3 to 10 days, he will leave the funds with the officer acting in his place, taking a memorandum receipt therefor. If an officer is to be absent for more than 10 days he will regularly transfer the funds to his successor.
3. In transferring funds to a successor, the accountable officer will enter in the council book a statement showing all outstanding indebtedness and will enter and sign the following certificate:

"I certify, to the best of my knowledge and belief, that the following is a complete and accurate statement of all outstanding debts and obligations, to date, payable from this fund."

In case there are no outstanding debts or obligations he will certify accordingly. (324)

Q. Under what designation are company funds deposited in a bank?

A. They will be placed under their official designation. For example: "Company Fund, Company 'H,' 29th Infantry." They will not be placed to the credit of the officer who is the custodian. (324)

Q. From what sources do the regimental fund accrue?

- A. 1. The percentage received from band engagements. This is usually 10 per cent of the gross amount received.
2. The percentage of the Post Exchange profits. The regulations require that when a dividend is declared by the Post Exchange, at least 5 per cent, and as much more as the council will allow, will be paid over to the regimental fund.
3. From contributions. In some organizations the officers contribute one day's pay each year to the regimental fund.
4. From any other legitimate source. (325)

Q. Who is the custodian of the regimental fund?

- A. The adjutant of the regiment. (325)

Q. From what sources do the company fund accrue?

- A. 1. Savings on rations. This money is accounted for under the mess section of the company fund.
2. The amounts received from Post Exchange Dividends. When the profits of the Post Exchange show a balance over and above the outstanding liabilities the council usually distributes this money by declaring a dividend which is paid to the companies on the basis of the stock held, or according to the amount expended in the exchange by the members of the company, or a combination of the two methods.
3. All other moneys accruing from percentages or profits from pool and billiard tables installed in the company library and amusement room and from tailor and barber shops. (327)

Q. Who is the custodian of the company fund?

- A. The company commander. (327)

NOTE.—The company fund is divided into two classes, the general fund and the mess fund. The mess fund accrues from savings that may be made on rations and it may be expended only for articles or supplies that are consumed or used exclusively in the com-

pany mess. The general fund consists of all other moneys accruing to the company, and may be expended for any article for the benefit of the whole company which cannot be supplied by a supply department. When the mess fund of a company runs low, money from the general fund may be borrowed to replenish it. The reverse of this rule does not hold.

Q. What is a roster?

- A. A roster is a list of officers and men for duty, with a record of the duty performed by each.

NOTE.—Generally details for duty are made so that the one longest off is the first for detail. Details so made are said to be made by roster. (355)

Q. What are the classes of duty performed by roster?

- A. 1. Outposts.
2. Interior guards, including stable guards.
3. Detachments to protect laborers on military works.
4. Armed working parties on such works.

The above constitute duties of the first class. Soldiers march armed and, if necessary, fully equipped on all duties of this class.

The second class comprises all other duties and fatigue, in or out of the garrison or camp. The rosters are distinct for each class. (357)

Q. What are the several duty rosters?

- A. 1. Lieutenant-colonels and majors are on one roster, and may be detailed when the importance of the duty requires it. In the field, their roster is kept at division and brigade headquarters.
2. Captains form one roster and are exempt from ordinary fatigue duties.
3. Lieutenants form one roster, but when conditions make it advisable captains and lieutenants may be placed on one roster, or one or more of the senior lieutenants may be placed on the captains' roster.
4. Sergeants, corporals, musicians and privates form distinct rosters. (358)

Q. What rules govern the performance of duty by roster?

- A. In making details by roster, an officer or enlisted man is each day charged with the number of days that he has remained present and available since the beginning of his last tour. Departures from this rule may be authorized by the com-

manding officer whenever a strict application would allow improper advantage or work hardship. (360)

Q. When are credits given for tours of duty?

- A. 1. Duties of the first class are credited on the roster when the guards or detachments have passed the chain of sentinels, or an interior guard has reached its post.
 2. Duties of the second class are credited when those detailed therefor have entered upon their performance.

NOTE.—Except in case of emergency no duty is required of the old Officer of the Day or the old guard until four hours after they have been relieved. (362)

Q. What rules govern the daily service in garrison or camp?

- A. 1. There will be daily, Sundays and holidays excepted, at least two roll-calls, viz.: Reveille and retreat.

NOTE.—The roll is called on the company parade by the First Sergeant, superintended by a commissioned officer. In camp the squad leaders report their squads, in lieu of the roll call prescribed for garrison. When companies are quartered together or in contiguous barracks, one officer may superintend the roll call of two or more companies. This is usually done by the officer of the day.

2. Ordinarily there will not be any formation at tattoo. The call will be sounded, and 15 minutes thereafter, lights in squad rooms will be extinguished and loud talking and noises will cease.
3. Call to quarters will be sounded at 10.45 P.M., and taps at 11. At taps all lights not authorized by the commanding officer will be extinguished.
4. Reveille roll-call in garrison will not ordinarily take place earlier than 5.30 A.M., in summer, nor 6.30 A.M., in winter. On Sundays and holidays reveille roll call may be dispensed with. (370)

Q. What are the regulations governing the time of the soldier's mess?

1. For breakfast, thirty minutes after reveille roll call.
2. For dinner, not earlier than 12 and not later than 12.15.
3. For supper, not earlier than 5 and not later than 6.30 P.M.
4. Meals are required to be served promptly at the hours appointed. The men will be allowed at least 20 minutes

for breakfast and supper and thirty minutes for dinner. (371)

Q. With what military honors are the President and Vice-president received?

- A. With regimental colors or standards drooping, officers and troops saluting, and the bands playing "The Star Spangled Banner," or in the absence of a band, the field music or bugles sounding "to the color." (375)

Q. With what military honors are General officers of the Army received?

- A. Officers of the following grades of rank will be received with regimental standards or colors drooping, officers and troops saluting and the bands or field music playing as follows:

- (a) The General: The General's March.
- (b) The Lieutenant General: trumpets sounding three flourishes, or drums beating three ruffles.
- (c) A Major General: trumpets sounding two flourishes, or drums beating two ruffles.
- (d) A Brigadier General: trumpets sounding one flourish, or drums beating one ruffle. (375)

Q. What military honors are rendered to the National Color?

1. The National or Regimental Color or Standard, uncased, passing a guard or other armed body will be saluted, the field music sounding "to the color" or "to the standard."
2. Officers and enlisted men passing the uncased color will render the prescribed salute; with no arms in the hand, the salute will be the hand salute, using the right hand. The head dress will not be removed. (377)

Q. Whenever "The Star Spangled Banner" is played, what action is taken?

- A. Whenever "The Star Spangled Banner" is played at a military station or at any place where persons belonging to the military service are present in their official capacity or present unofficially but in uniform, all officers and enlisted men will stand at attention, facing towards the music, except at retreat, when they will face towards the flag, retaining that position until the last note of the air, and then salute. With no arms in the

hand the salute will be the hand salute.

NOTE.—The same respect is required to be paid towards the national air of any other country, when it is played as a compliment to the official representatives of such country. (378)

Q. What rules govern military courtesies and salutes between officers?

- A. 1. When making or receiving official reports, all officers will salute, if covered; if uncovered, they stand at attention.
2. When under arms, the salute is made with the sabre, if drawn: otherwise with the hand.
3. On meeting, all officers, when covered salute; when uncovered, they exchange the courtesies observed between gentlemen.
4. Military courtesy requires the junior to salute first, but when the salute is introductory to a report made at a military ceremony or formation to the representative of a common superior—for example: to the adjutant, officer of the day, etc.—the officer making the report, whatever his rank, will salute first. The officer to whom the report is made will acknowledge, by saluting if covered, or verbally, if uncovered, that he has received and understood the report. (381)

Q. What rules govern the military salutes of enlisted men?

- A. 1. Uncovering is not a form of the prescribed salute. The hand salute is executed only when covered.
2. When an enlisted man with no arms in hand passes an officer, he salutes with the right hand. Officers are saluted whether in uniform or not.
3. An enlisted man armed with the sabre and out of ranks, salutes all officers with the sabre, if drawn, otherwise he salutes with the hand. If on foot, and armed with a rifle, he makes the rifle salute. Except in the field, in campaign or under simulated campaign conditions, a mounted soldier dismounts before addressing an officer not mounted.
4. A noncommissioned officer or private in command of a detachment without arms, salutes all officers with the hand, but if the detachment be on foot and armed with the rifle, he makes the rifle

salute and, if armed with the sabre, he salutes with it.

5. An enlisted man, if seated, rises on the approach of an officer, faces towards him and, if covered, salutes. If uncovered, he stands at attention. If standing, he faces the officer for the same purpose. If the parties remain in the same place or on the same ground, such compliments need not be repeated.
6. Soldiers actually at work do not cease work to salute an officer unless they are addressed by him.
7. Before addressing an officer, an enlisted man makes the prescribed salute with the weapon with which he is armed, or, if unarmed and covered, with the hand. He also makes the same salute after receiving a reply. If uncovered, he stands at attention without saluting.
8. Indoors, except under the conditions stated below, an unarmed enlisted man uncovers and stands at attention on the approach of an officer. If armed he salutes as heretofore stated. On all occasions outdoors, and also in public places, such as stores, theatres, railway and steamboat stations and the like, the salute to any person whatever by officers and enlisted men in uniform with no arms in the hand, whether on or off duty, shall be the hand salute, the right hand being used, the headdress not being removed.
9. When an officer enters the room where there are soldiers, the word "Attention" is given by someone who perceives him, when all rise and remain standing at attention until the officer leaves the room. Soldiers at meals do not rise.
10. Soldiers at all times and in all situations pay the same compliments to officers of the Army, Navy, Marine Corps, and Volunteers, and to officers of the Organized Militia in uniform, as to officers of their own corps, regiment, or arm of the service.
11. Officers will always acknowledge the courtesies of enlisted men by returning their salutes. When several officers in company are saluted, all return the salute. (382-391)

Q. What are the general rules regarding the time of firing of salutes with cannon?

- A. 1. Salutes will not be fired between sunset and sunrise, nor on Sunday, unless required by international courtesy. As a general rule they will be fired between 8 A.M., and sunset.
 2. The National Flag will always be displayed at the time of firing a salute. (393)

Q. What is the National Salute?

- A. Twenty-one guns. The National Salute is fired at 12 o'clock noon on Memorial Day, May 30th, at all posts and stations provided with artillery. (398)

Q. What is the Salute to the Union?

- A. The Salute to the Union consists of one gun for each State. It is commemorative of the Declaration of Independence and is fired at 12 o'clock noon on July 4th, at every post of the Army provided with suitable artillery. (398)

Q. What salute is rendered to the President?

- A. The President, both upon his arrival at, and departure from, a military post, or when in its vicinity, receives a salute of 21 guns. No other personal salute is fired in his presence. (400)

Q. What rules govern the raising and lowering of the flag at a military post?

- A. The flag is hoisted at the sounding of the first note of the reveille, or at the first note of the march, if a march be played before the reveille.

The flag will be lowered at the sounding of the last note of retreat, and while the flag is being lowered the band will play "The Star Spangled Banner" or, if there be no band present, the field music will sound "to the color." When "to the color" is being sounded by the field music and the flag is being lowered, the same respect will be observed as when "The Star Spangled Banner" is being played by the band. In either case, officers and enlisted men out of ranks will face towards the flag, stand at attention, and render the prescribed salute at the last note of the music.

NOTE.—The flag is hoisted at reveille and lowered at retreat by a detachment of the guard, consisting of a noncommissioned officer and two privates. (437)

Q. What are the rules governing the muster of troops?

- A. 1. Troops will be mustered for pay on

- the last day of each month unless otherwise ordered by the War Department.
 2. Each stated muster will, when practicable, be preceded by a minute and careful inspection.
 3. If the command consists of more than one company, the inspection will be preceded by a review.
 4. If the day for muster falls on Sunday, the review and inspection will be omitted. (439)

Q. Describe the military ceremony at a military post on Memorial Day?

- A. 1. On Memorial Day, May 30th, at all Army posts and stations, the national flag will be displayed at half-staff from reveille till midday. Immediately before noon the band, or field music, will play some appropriate air, and the National Salute of 21 guns will be fired at 12 o'clock noon at all posts provided with artillery.
 2. At the close of this memorial tribute, at noon, the flag will be hoisted to the top of the staff and remain there until retreat.
 3. When the flag has been hoisted to the top of the staff, it will be saluted by playing one or more appropriate patriotic airs. (400)

Q. Distinguish between property accountability and property responsibility?

- A. 1. Property accountability. When an officer receives public property for which he is required to render periodical returns, he is said to be accountable for the property.
 2. Property responsibility. When an officer receives public property for which he is not required to render a return, he is said to be responsible for the property.

NOTE.—Under the existing system, company commanders are only accountable for the property which forms the Unit Equipment of his company. This consists of certain articles of Ordnance and Signal property. All of the other equipment of the company is issued by the Quartermaster or Ordnance Officer on memorandum receipt and the company commander is only responsible—not accountable—for it. With respect to this class of property, the Quartermaster and Ordnance Officer are accountable because they are required to render periodical returns

for the property to the chiefs of their respective departments. A responsible officer is not relieved from responsibility for public property for which he has given memorandum receipts until he has returned the property to the accountable officer or has secured memorandum receipts from his successor, or until he has been otherwise relieved by the operation of regulations or orders. (657-Ed.)

Q. What rules govern the transfer of property from one officer to another?

- A. 1. If the officer in charge of the public property of a command (not property pertaining to a company or detachment) is, by order, leave of absence, or any other cause, separated from it, the commanding officer, or another officer designated by him, will receipt and account for it.
2. A company or detachment commander is responsible for all property pertaining to his company or detachment, and will not transfer his accountability therefor to a successor during periods of absence of less than a month unless so ordered by competent authority. When such absence exceeds a month, the question of responsibility will be determined by proper authority. (659)

Q. What is the status of an officer with respect to the property responsibility, when he is in temporary command of the company?

- A. The officer in temporary command of a company is responsible for the property pertaining thereto whether he receipts for it or not. (662)

Q. May property responsibility be transferred to enlisted men?

- A. The property responsibility of a company commander cannot be transferred to an enlisted man. It is his duty to attend personally to its security. (663)

Q. Describe the procedure in the transfer of public property from one officer to another?

- A. Accountability. The return for the property is made out and the receiving officer enters thereon a statement that all the property accounted for as on hand and transferred to successor has been received by him. The transferring officer will similarly enter on the return a statement that all the property has

been transferred to his successor and actually turned over to him.

Responsibility: The officer transferring the property procures a memorandum receipt from his successor for the property. He takes this to the officer accountable for the property, turns it over to him and receives his old receipts, which transaction ends his responsibility. (665)

Q. What action is taken by an officer on the receipt of public property which has been invoiced to him or for which he has given memorandum receipts?

- A. 1. He will make a careful examination of the property to ascertain its quantity and condition, but will not break original packages until issues are to be made, unless he has reason to believe the contents defective.
2. Should he find defects or shortage he will apply for a survey to fix the responsibility.
3. Should he consider the property unfit for use he will submit inventories in duplicate and request the action of an inspector. (668)

Q. How will public property be branded before it is used?

- A. It will be branded "U. S." (676)

Q. With reference to its disposition, into what classes is unserviceable property divided?

- A. 1. Property worn out by fair wear and tear in the service which has no salable value.
2. Property worn out by fair wear and tear in the service which presumably has some salable value.
3. Property which has been rendered unserviceable from causes other than fair wear and tear in the service.

Property of the first class may be submitted to a surveying officer and destroyed, or it may be submitted to an inspector without the prior action of a surveying officer.

Property of the second class will be submitted to an inspector without the prior action of a surveying officer.

Property of the third class will be submitted for the action of a surveying officer and, unless destroyed, will subsequently be submitted to an inspector.

NOTE.—In the case of unserviceable property worn out by fair wear and tear in the

service and which has no salable value, survey reports will be made out and disposed of as indicated heretofore. If the surveying officer finds the conditions as stated he will find that "the property is not fit for further use in the military service; that its condition is due to fair wear and tear in the service, and that it has no salable value." He will recommend "that the property be destroyed." When the commanding officer approves such finding and recommendation he will call for the property to be submitted to him for examination and after examining same will order it destroyed and detail an officer to witness the destruction. The property, with the survey report, is then turned over to the officer who witnesses the destruction of same and certifies at the bottom of page 3 of the report to such destruction. Two copies of the report are then forwarded to the accountable officer to be used as vouchers to his returns and the third copy forwarded to headquarters of the territorial department for administrative examination and file. (678-Ed.)

Q. How is the cause of damage to, and the loss and destruction of, military property classified?

- A. 1. Unavoidable causes, being those over which the responsible officers have no control, occurring (a) in the ordinary course of service, or (b) as an incident to an active campaign.
2. Avoidable causes, those due to carelessness, wilfulness or neglect. (682)

Q. To what extent are officers who hold public property in their custody held responsible?

- A. Officers responsible for public property will be charged for any damage to, or destruction of, the same, and money value will be deducted from their monthly pay unless they show to the satisfaction of the Secretary of War, by their own affidavits, or by their certificates supported by affidavits of others, that the damage, loss or destruction was occasioned by unavoidable causes and without fault or neglect on their part. (683)

Q. How is property expended in the military service accounted for?

- A. Public property expended in the military service will be accounted for by the certificate of the accountable officer. These certificates will accompany the

return covering the period in which the expenditure occurred. (683)

Q. What action is taken with respect to clearing property returns of property lost or damaged by a soldier who has been tried and convicted of the offense?

- A. When an enlisted man has, by a court-martial, been convicted of losing or damaging public property, the officer accountable for the property will send with his property return a certified copy of so much of the court-martial order as refers to the case, giving number, date and place of issue of the order, and stating on the face of said copy the rolls on which the charges were made. (685)

Q. What happens when an officer fails to render returns for property for which he is accountable?

- A. Should an officer charged with public property fail to render the returns prescribed therefor within a reasonable time, a settlement of his accounts will be made by the proper bureau of the War Department, and the money value of the property with which he is charged will be reported against him for stoppage. (700)

Q. What administrative action is taken with respect to returns for property when they are received in the office of the Chief of the bureau to which they pertain?

- A. 1. As soon as practicable after the receipt of a return it will be examined and the officer making the return will be notified of all errors and irregularities found therein and granted three months to correct them.
2. Suspensions or disallowances will not be made on account of slight informalities which do not affect the validity of a voucher, but the officer's attention may be called to them.
3. Whenever the errors have been corrected or compensation has been made for the deficiencies, and the action of the bureau chief is sustained or modified by the Secretary of War, the return will be regarded as settled, and the officer who rendered it will be notified accordingly. (702)

Q. What action is taken with respect to public property which has been damaged

by causes other than fair wear and tear or is unsuited for the service?

- A. Before being submitted to an inspector for condemnation it will be surveyed by a disinterested officer. (710)

Q. What action should be included in the investigation of a surveying officer?

- A. 1. The surveying officer must fully investigate matters submitted to him.
 2. He will call for all evidence obtainable and will not limit his inquiries to proofs or statements presented by parties at interest.
 3. He will rigidly scrutinize the evidence, especially in cases of alleged theft or embezzlement, and will not recommend the relief of officers or soldiers from responsibility unless fully satisfied that those charged with the care of property have performed their whole duty in regard to it.
 4. He should hear, in person or by deposition, all persons concerned in the subject matter before him. (711 and 712)

Q. Within what period of time must an officer call for a survey on property which he finds unserviceable?

- A. Within thirty days, unless exceptional circumstances prevent such action. (713)

Q. What is the scope of the duties that a survey officer may be called upon to perform?

- A. 1. He will ascertain and report facts, submitting opinions and making recommendations upon questions of responsibility which may arise through accident, mistake or neglect.
 2. He investigates and determines questions involving the character, amount and cause of damage or deficiency which public property may have sustained in transit, store or use, and which is not the result of ordinary wear and tear in the service, and reports the investigation made, his opinions thereon, and fixes the responsibility for such damage or deficiency on the proper party.
 3. He makes inventories of property ordered abandoned when the articles have not been enumerated in the order for abandonment.
 4. He recommends the prices at which damaged clothing may be issued and the proportion in which supplies shall be issued in consequence of damage or de-

terioration that renders them, at the usual rate, unequal to the regulation allowance, fixing in each instance the responsibility for actual condition.

5. He verifies the discrepancy between invoices and actual quantity or description of property transferred from one officer to another, fixes definitely amounts for which the receiving officer must receipt, and ascertains, as far as possible, when and how the discrepancy has occurred. (715)

Q. What classes of property may be destroyed on the approved finding and recommendation of a surveying officer?

- A. 1. Clothing infected with contagious disease.
 2. Stores that have become so deteriorated as to endanger health or injure other stores.
 3. Unserviceable property of no salable value. (The decision of the commanding officer will be final as to whether such property has salable value.)

NOTE.—When the application of this regulation to ordnance stores brings the total for a quarter for any organization, in excess of the amounts hereafter given, the approval of the next higher administrative commander, shall first be obtained.

Cavalry troops, and engineer and signal companies, \$300.00.

Batteries of field artillery, \$500.00.

Companies of infantry and coast artillery and all other cases \$150.00.
 (717)

Q. To what extent are approved survey reports considered as vouchers to property returns?

- A. They are not to be considered as conclusive until accepted by the Secretary of War. Until then, they are regarded simply as the opinions and recommendations of disinterested officers, to aid in the settlement of questions of accountability between the Government and the individuals concerned. If, on examination in the proper bureau, they exhibit serious errors, or defects, either of investigation or of finding, they will not be accepted as sufficient vouchers, and the officer submitting them will be duly notified, so that he may have opportunity to make explanation or appeal to the Secretary of War. (722)

Q. What administrative action is taken when a surveying officer recommends stoppage against an enlisted man?

A. The appointing authority will cause a copy of the report of the survey to be furnished to the company commander, who will charge the amount on the next pay-roll of the company. (724)

Q. When an inspection of property follows a survey of it, what disposition is made of the survey report?

A. One copy of the proceedings will accompany the Inventory and Inspection Report which is transmitted for approval, and will afterwards be returned to be used as a voucher to the officer's re-

turns, and another, with the Inventory and Inspection Report, will be filed by the officer with his retained papers. (725)

Q. What are the general rules regarding official correspondence in the Army?

- A. 1. An official letter should refer to one subject only.
2. Letters of transmittal will be used only when necessary, and when used must refer only to the matter transmitted. None are required with rolls, returns, estimates, requisitions or periodical reports.
3. The following is the form of official correspondence in use in the service.

427—Broadway,
New York City, N. Y., October 20, 1916.

From: John Doe.

To: The Commanding General, Eastern Department, Governor's Island, N. Y.

Subject: Examination for Officers' Reserve Corps.

1. Information is requested as to the date on which, and the place at which, the undersigned may appear for examination for appointment as Second Lieutenant of Infantry in the Officers' Reserve Corps.

John Doe.

1st Ind.

Hq. Eastern Department, Governor's Island, N. Y., October 22, 1916.—To Mr. John Doe, 427 Broadway, New York City, N. Y.

1. You are authorized to appear before the examining board at Governor's Island, New York, at 10.00 o'clock A.M., November 17, 1916.

2. There is inclosed herewith a letter authorizing you to take the examination for appointment to the grade of Second Lieutenant of Infantry in the Officers' Reserve Corps.

By command of

.....
Adjutant.

of the months of February, April, June, August, October and December. (807)

Q. What disposition is made of muster rolls?

A. One copy is forwarded by the mustering officer to the Adjutant General of the Army and the other copy is kept on file with the organization to which it pertains. (807)

Q. Into what parts is the soldier's clothing allowance divided?

A. The initial allowance which is intended to cover the cost of all clothing required between the date of enlistment and the date upon which the recruit is taken up for full duty with his company. The initial allowance is not considered fully earned by the soldier until he has completed six months' service.

The yearly allowance which is divided for the purpose of settlement into semi-annual, monthly and daily allowances.—Ed.

Q. When are muster rolls prepared?

A. At each bimonthly muster, on the last day

(775-790—Ed.)

Q. How often is the soldier's clothing allowance settled?

A. On June 30th and December 31st of each year. When the clothing account of the soldier is opened in the organization to which he has been regularly assigned, he is credited with the initial allowance. At the first settlement he is credited with the portion of the yearly allowance accruing between the date of enlistment and the date of settlement as determined by the monthly and daily rates. At each succeeding settlement he is credited with the half yearly allowance, and at the expiration of his term of service he is credited with the amount due from the last settlement as determined by the monthly and daily rates. The clothing allowance of the soldier is based upon the estimated cost of the clothing necessary to equip him properly. The amount changes from time to time and is published in orders from the War Department. (1161)

Q. What action is taken when the soldier is separated from the service before the completion of six months' service and before he has fully earned his initial clothing allowance?

A. His clothing allowance is computed as follows:

1. Any clothing allowance that has been previously credited will be disregarded.
2. The initial allowance will be credited at the daily rate from date of enlistment to date of separation from the service.
3. The yearly allowance will be similarly credited.
4. The sum of the computed initial allowance and yearly allowance will be the total allowance to be credited to the soldier. (1162)

Q. What action is taken when a soldier has a balance due him on his clothing allowance at any settlement date?

A. He is credited with the amount on his clothing account. (Ed.)

Q. What action is taken when a soldier has overdrawn his clothing allowance on any settlement date?

A. The money value of the clothing overdrawn is charged against him and collected on the pay rolls. (Ed.)

Q. Describe the method by which the soldier

procures clothing from the government and the administrative action taken to account for same?

A. The soldier makes out a list of the clothing that he desires to draw. The company commander enters the articles on an individual clothing slip, showing the name and rank of the soldier and signs the same as a request to the quartermaster to issue the clothing. The soldier presents this slip, in duplicate to the quartermaster, receives the articles enumerated thereon and signs as having received them at the bottom of the slip. The original of the slip is retained by the quartermaster and the duplicate is returned to the company commander who makes a calculation of the money value of the clothing drawn, enters the transaction on his abstract of clothing drawn and on his statement of clothing charged to enlisted men, and charges the amount of the issue against the soldier's clothing account on his Descriptive List. At the end of the month or whenever an organization leaves the vicinity of the issuing quartermaster for an extended period, the organization commander will compare his abstract of clothing drawn with the quartermaster's abstract of clothing issued. After satisfactory settlement of all differences, should there be any, an additional copy of the abstract will be prepared by the company commander and delivered to the quartermaster. The company commander will file his retained copy with the duplicate clothing slips as vouchers and his statement of clothing charged to enlisted men. (1157)

Q. Is a soldier while absent without leave entitled to clothing allowance?

A. He is not.

Q. What is a ration?

A. A ration is the allowance for the subsistence of one person for one day. (1202)

Q. What are the several rations used in the United States Army?

A. The garrison ration, intended for troops in garrison and, in time of peace, for troops in maneuver camps.

The travel ration, intended for troops traveling otherwise than by marching, and separated from cooking facilities.

The reserve ration, carried by troops on the person of the men and in the trains, and constituting the reserve for field service.

The field ration, is the ration prescribed in orders by the commander of the field forces.

The Filipino ration, for the use of the Philippine Scouts.

The emergency ration, intended for troops in active campaign for use on occasions of emergency. (1205)

Q. What are the several components of the Army ration?

A. The meat component (20 ounces), consisting of fresh beef or mutton or bacon, or canned meat, or corned beef hash, or fish, dried, pickled, or canned. Turkey is provided in addition for Thanksgiving Day and Christmas. Fresh beef is the basis of the component, all others are substitutive.

The flour component (eighteen ounces), substitutes: soft bread, hard bread, and corn meal.

The baking powder component, 0.08 ounces.

The vegetable component. Beans, 2.4 ounces, substitutes: rice or hominy, 1.6 ounces each. Potatoes, 20 ounces, substitutes: canned potatoes, onions, tomatoes and any other fresh vegetables that may be procured in the market.

The fruit component. Prunes, 1.28 ounces, substitutes: dried apples, or peaches or jam.

The coffee component, 1.12 ounces, substitute: tea.

Sugar and milk component.

The condiments. Vinegar, salt, pepper, cinnamon.

The lard, butter, syrup and flavoring extract, components. (1205)

Q. In adjusting accounts how are the several rations valued?

A. Garrison ration, 30 cents; Filipino ration, 20 cents, and travel ration, 40 cents. (1207)

Q. Describe the method of procuring the rations for a company?

A. The company commander submits a ration return for the number of men that he has to ration for the period prescribed by the commanding officer. This may be ten days, or any other number of days. In garrison it is usually for the month, in the field for ten days, and in some

cases five days. After receiving the approval of the commanding officer the return is taken to the quartermaster who calculates the total money value of the rations called for and credits the company with the amount. The company commander draws against this amount to its full value if he so desires. Any saving that he may make is paid to him in cash at the end of the ration period and any overdraft that he may make has to be paid out of the company or other funds.

Q. What are the regulations regarding soldiers' deposits?

A. An enlisted man, not on the retired list, may deposit his savings with any quartermaster in sums of not less than \$5.00, the same to remain so deposited until final payment on discharge or until furloughed to the reserve.

The quartermaster furnishes each depositor a book showing the name of the depositor. The date, place and amount, in words and figures of each deposit made, will be entered in the form of a certificate and signed by the company commander and quartermaster.

The transfer, pledge, or sale of the deposit book is prohibited.

The company commander keeps a record of each deposit made by the soldier on his Descriptive list and after each payment he forwards, direct to the Quartermaster General, a list of the names of the depositors showing in each case the date, place and amount of the deposit and the name of the Quartermaster who received it.

A list of the soldier's deposits will be made on his final statements when he is discharged or furloughed to the reserve and they will be paid to him together with interest at the rate of four per cent for all sums that have remained on deposit more than six months.

Deposits and the interest thereon are forfeited by desertion, but forfeiture of them cannot be imposed by sentence of court-martial.

They are exempt from liability for debts due to individuals; from forfeiture by the sentence of a court-martial; and from payment of the soldier's private debts. They are not exempt from liability for debts due the United States. (Ed.)

MILITARY LAW

- Q. What are the four classes of Military Jurisdiction?*
- A. 1. Military Government (the law of hostile occupation).
2. Martial Law at home (a domestic fact).
3. Martial Law applied to the Army.
4. Military Law.
- Q. What is Military Government, or the law of hostile occupation?*
- A. Military power exercised by a belligerent by virtue of his occupation of an enemy's territory. This belongs to the Law of War and, therefore, to the Law of Nations. When a conquered territory is ceded to the conqueror, military government continues until civil government is established by the new sovereign.
- Q. What is Martial Law at home?*
- A. Military power exercised in time of war, insurrection or rebellion, in parts of the country retaining their allegiance, and over persons and things not ordinarily subjected to it.
- Q. What is the Martial Law Applied to the Army?*
- A. The military power extending in time of war, insurrection or rebellion, over persons in the military service, as to obligations arising out of such emergency and not falling within the domain of military law, or otherwise regulated by law.
- Q. What is Military Law?*
- A. The legal system that regulates the government of the military establishment. It is a branch of the municipal law, and in the United States derives its existence from special constitutional grants of power.
- Q. What is the source of military jurisdiction in the United States?*
- A. The Constitution.
- Q. From what sources is Military Law derived?*
- A. It is derived from both written and unwritten sources.
- Q. What are the written sources of Military Law?*
- A. The Articles of War, enacted by Congress, August 29, 1916.
2. Statutory enactments relating to the military service.
3. The Army Regulations.
4. The General and Special Orders, and decisions promulgated by the War Department and by department, post and other commanders.
- Q. What is the source of the unwritten military law?*
- A. The custom of war, consisting of the customs of the service both in peace and war.
- Q. What are the three kinds of Military Tribunals?*
- A. 1. Military Commissions and Provost Courts, for the trial of offenders against the laws of war and under Martial Law.
2. Courts-Martial—General, Special and Summary—for the trial of offenders against military law.
3. Courts of Inquiry, for the examination of transactions of, or accusations or imputations against, officers and soldiers.
- Q. What persons are subject to Military Law?*
- A. 1. All officers and soldiers belonging to the regular army of the United States; all volunteers, from the dates of their muster or acceptance into the military service of the United States; and all other persons lawfully called, drafted, or ordered into, or to duty, or for training in the said service, from the dates they are required by the terms

of the call, draft, or order to obey the same.

2. Cadets.
3. Officers and soldiers of the Marine Corps, when detached for service with the armies of the United States, by order of the President.
4. Officers and men of the Medical Department of the Navy, serving with a body of Marines detached for service with the Army, in the same manner as officers and men of the Marine Corps who may be so serving.
5. All retainers to the camp and all persons accompanying or serving with the armies of the United States, outside of the territorial jurisdiction of the United States; and, in time of war, all such retainers and persons accompanying or serving with the armies of the United States in the field, both within and without the territorial jurisdiction of the United States, though not otherwise subject to the Articles of War.
6. All persons under sentence adjudged by courts-martial.
7. Army field clerks.
8. Field Clerks, Quartermaster Corps.

Q. What are the several kinds of courts-martial in the United States service?

- A. 1. The General court-martial.
2. The Special court-martial.
3. The Summary court-martial.

Q. Who may be detailed as members of a court-martial?

- A. All officers in the military service of the United States and officers of the Marine Corps when detached for service with the Army by order of the President.

Q. What are the exceptions?

- A. 1. No officer may sit as a member of a general or special court-martial when he is the accuser or a witness for the prosecution.
2. Chaplains, veterinarians, dental surgeons, and second lieutenants in the Quartermaster Corps are not in practice detailed as members of courts-martial.

Q. What is the composition of a general court-martial?

- A. It may consist of any number of officers from 5 to 13, inclusive.

Q. What is the minimum number that may continue to transact business?

- A. Five. While a number less than five cannot be organized as a general court-martial or proceed with a trial, they may perform such acts as are preliminary to the organization and action of the court.

Q. What action is taken when the court is reduced below five?

- A. It will direct the judge advocate to report the facts to the convening authority, and await his orders.

Q. What is the composition of a special court-martial?

- A. It consists of any number of officers from three to five, inclusive. When the members are reduced below three, a report of the fact will be made by the judge advocate to the convening authority, who will detail enough officers to enable the court to proceed.

Q. What is the composition of a summary court-martial?

- A. It consists of one officer.

Q. Under what conditions may retired officers of the Army be detailed as members of courts-martial?

- A. 1. When, in time of peace, they are assigned to active duty with their own consent.
2. When, in time of war, they are employed on active duty in the discretion of the President.
3. At other times they are not available for court-martial duty.

Q. Under what conditions are members of the Officers' Reserve Corps available for court-martial duty?

- A. When they are ordered to active service by the Secretary of War.

Q. Under what circumstance may officers of the Regular Army and officers of the Marine Corps serve on courts-martial together?

- A. When troops of the Marine Corps are detached, by order of the President, for service with the Army.

Q. Is there any distinction between officers of the regular service and other officers with reference to their eligibility for duty as members of a court-martial?

- A. No distinction now exists for the trial of any person subject to military law in the matter of eligibility for court-martial duty among the various classes

of officers in the military service of the United States.

Q. May an officer be tried by officers junior to him in rank?

A. In no case, when it can be avoided, shall an officer be tried by officers junior to him in rank. This provision is not mandatory upon the convening authority. Its effect is to leave to that officer—as the final authority to judge—the determination of rank of the members, with only the general instruction that seniors in rank to the accused shall be selected, as far as the exigencies and interests of the service will permit.

Q. What officers are empowered to appoint general courts-martial?

- A. 1. The President of the United States.
2. The commanding officer of a territorial division.
3. The commanding officer of a territorial department.
4. The Superintendent of the Military Academy.
5. The commanding officer of an army.
6. The commanding officer of an army corps.
7. The commanding officer of a tactical division.
8. The commanding officer of a separate brigade.
9. The commanding officer of any district or any force or body of troops, when empowered by the President to do so.

Q. When the person having the authority to appoint a court-martial is the accuser, what action is taken?

A. The court is appointed by a higher competent authority.

Q. May officers be tried before courts-martial appointed by the Superintendent of the Military Academy?

A. They may not.

Q. Under what authority may the President institute a general court-martial?

- A. 1. As commander-in-chief of the Army.
2. When the accuser is the superior officer of the army, and the law requires the next higher commander to appoint the court.
3. In the particular cases provided in 1230 of the Revised Statutes.

NOTE.—When an officer, dismissed by order of the President, makes a written applica-

tion for trial, setting forth under oath that he has been wrongfully dismissed, the President shall, as soon as the necessities of the service may permit, convene a court-martial to try such officer on the charges on which he shall have been dismissed. And, if a court-martial is not so convened within six months from the presentation of such application for trial, or if such court, being convened, does not award dismissal or death as the punishment of such officer, the order of dismissal by the President shall be void. (R. S. 1230.)

Q. What authority has the appointing officer over a court-martial?

A. He may control its existence, dissolve it and determine the cases to be referred to it for trial, but he can not control the court in the exercise of powers vested in it by law.

Q. What authorities may appoint a special court-martial?

- A. 1. The commanding officer of a district.
2. The commanding officer of a garrison.
3. The commanding officer of a fort.
4. The commanding officer of a camp.
5. The commanding officer of any place where troops are on duty.
6. The commanding officer of a brigade.
7. The commanding officer of a regiment.
8. The commanding officer of a detached battalion.
9. The commanding officer of any detached command.

Q. May a commanding officer appoint himself as a member of a special court-martial?

A. He may not.

Q. What authorities may appoint a summary court?

A. Any commanding officer.

Q. When there is only one officer on duty with a command what action is taken with reference to the appointment of a summary court officer?

A. When but one officer is present with a command, he is the summary court officer of that command and shall hear and determine cases brought before him. In such case no order appointing the court will be issued, but the officer will enter on the record that he is "the only officer present with the command."

Q. Who has power to appoint the judge advocate of a court-martial?

A. The officer empowered to appoint the court.

Q. From what ultimate source does the court-martial derive its existence?

A. From Congress.

Q. To what class of cases is the jurisdiction of the court-martial limited.

A. Its jurisdiction is limited to criminal cases.

Q. Are the decisions of courts-martial subject to review?

A. They are not subject to review by any courts whatsoever. The United States Courts may, on writ of habeas corpus, inquire into the legality of the detention of a person held by military authority. Such inquiry may be made at any time, either before or during trial, or while sentence is being served, and the court will order such person discharged if it appears to the satisfaction of the court that any of the statutory requirements conferring jurisdiction have not been fulfilled.

Q. What action is necessary to legalize the action of a court-martial?

A. The approval, or confirmation, of the proper commanding officer. With such approval or confirmation, sentences of courts-martial become operative, are as effective as the sentences of civil courts having criminal jurisdiction, and are entitled to the same legal consideration.

Q. What conditions must obtain as to the legal jurisdiction of a court-martial and the validity of its judgments?

A. It must be shown:

1. That it was convened by an officer empowered by statute to convene it.
2. That the persons who sat on the court were legally competent to do so.
3. That the court thus constituted was invested by the acts of Congress with the power to try the person and the offense charged.
4. That its sentence was in accordance with the law.

Q. What is the rule of procedure when courts-martial and civil courts have concurrent jurisdiction?

A. In accordance with the principle of comity, as between the military and civil tribunals, in cases of concurrent jurisdiction the court which first at-

taches in a particular case is entitled to proceed to its termination.

Q. What is the procedure when a court-martial has duly assumed jurisdiction over an offence and over the person committing it, and is divested of that jurisdiction by a wrongful act of the accused?

A. A court-martial having once assumed jurisdiction of a case, can not be divested, by any wrongful act of the accused, of its authority or be discharged from its duty to proceed to fully try and determine according to law and its oath. Thus, the fact that the accused, after arraignment and during the trial, has escaped from military custody furnishes no ground for not proceeding to a finding and, in the event of conviction, to a sentence in the case; the court may and should find and sentence as in any other case.

Q. What are the exceptions to the rule that military jurisdiction terminates when a person is legally separated from the service?

1. Persons guilty of fraud against the United States.
2. Under Section 1230 Revised Statutes (see ante.).
3. Persons serving sentence of a court-martial.
4. Where a discharge is secured by fraud.
5. Desertion in previous enlistment.

NOTE.—For an offence committed prior to the expiration of his term of enlistment, a soldier may be held in the service and tried after the expiration of his term. So, also, a soldier may be tried for offences committed while making up time lost by desertion; through absence without leave; through disease or injury, the result of his own misconduct.

Q. Over what persons and offences do general courts-martial have jurisdiction?

1. Any person subject to military law; for any crime or offence made punishable by the Articles of War.
2. Any person other than (1) above, who by the law of war is subject to trial by military tribunals; for any crime or offence in violation of the law of war.

Q. What limits are placed on the punishing power of a general court-martial?

A. Punishment is discretionary with a general court-martial except:

- (a) When mandatory under the law.
- (b) When limited by order of the President, under the 45th Article of War.
- (c) That the death penalty can be imposed, only when specifically authorized.

Q. Name some of the mandatory sentences?

- A. 1. The death sentence is mandatory in the case of spies.
2. Dismissal is mandatory for conduct unbecoming an officer and a gentleman.
3. Either death or imprisonment is mandatory for murder or rape.

Q. Over what persons and offences do special courts-martial have jurisdiction?

- A. 1. Any person subject to military law, except:
- (a) An officer.
 - (b) Any person subject to military law and belonging to a class or classes excepted by the President.
2. Any crime or offence—not capital—made punishable by the Articles of War.

NOTE.—Under (b), cadets and soldiers holding certificates of eligibility for promotion are excepted from the jurisdiction of special courts-martial.

Q. What are the capital crimes under the Articles of War?

- A. 1. Peace offences:
- (a) Assaulting or disobeying a superior officer.
 - (b) Mutiny or sedition.
 - (c) Failure to suppress mutiny or sedition.
2. War offences:
- (a) Desertion.
 - (b) Advising or aiding another to desert.
 - (c) Misbehavior before the enemy.
 - (d) Subordinates compelling a commander to surrender.
 - (e) Improper use of countersign.
 - (f) Forcing a safeguard.
 - (g) Relieving, corresponding with, or aiding the enemy.
 - (h) Spies.
 - (i) Misbehavior of sentinel.

Q. What is the limit of the punishing power of a special court-martial?

- A. 1. Confinement for six months.

2. Forfeiture of pay for six months.

NOTE.—They can not adjudge dishonorable discharge. Reduction of noncommissioned officers to the ranks and reduction of privates in grade may be adjudged in addition to the above.

Q. Over what persons and offences do summary courts-martial have jurisdiction?

- A. 1. Any person subject to military law, except:
- (a) An officer.
 - (b) A cadet.
 - (c) A soldier holding a certificate of eligibility for promotion.
 - (d) A noncommissioned officer who objects to trial. (Except when ordered by an officer competent to bring him to trial before a general court-martial.)
 - (e) Any person belonging to a class or classes of persons excepted by the President from the jurisdiction of the summary court-martial.

2. For any crime or offence—not capital—made punishable by the Articles of War.

Q. What are the limits of punishment of a summary court-martial?

- A. 1. Confinement for three months.
2. Forfeiture of three months' pay.

NOTE.—Reduction to the ranks in the case of noncommissioned officers, etc. See note, second question above.

Q. What restrictive action is taken against an officer charged with an offence?

- A. An officer charged with crime or a serious offence against the Articles of War shall be placed in arrest by the commanding officer, and, in exceptional cases, an officer so charged may, by the same authority, be placed in confinement.

Q. What restrictive action is taken against a soldier charged with an offence?

- A. 1. A soldier charged with crime or a serious offence against the Articles of War shall be placed in confinement; when charged with a minor offence, he may be placed in arrest.

NOTE.—In practice, the general rule observed is: if a soldier is to be tried by a general court-martial, he will be placed in con-

finement; if he is to be tried by an inferior court, he is placed in arrest.

Q. Does the fact that a person charged with an offence has not been placed in arrest or confinement affect the jurisdiction of the court?

A. It does not.

Q. In whom is vested the power of placing officers in arrest?

A. Only commanding officers, except as provided for in the 68th Article of War:

All officers and noncommissioned officers have power to part and quell all quarrels, frays and disorders among persons subject to military law and to order officers who take part in the same into arrest, and other persons subject to military law who take part in the same into arrest or confinement, as circumstances may require, until their proper superior officer is acquainted therewith . . .

Q. How is the arrest of an officer effected?

A. He may be placed in arrest by his commanding officer in person or through another officer; by a verbal or written order or communication, advising him that he is placed in arrest, will consider himself in arrest, or words to that effect.

Q. What is the official and social status of an officer in arrest?

- A. 1. He cannot exercise command of any kind.
2. He will not wear his sword.
3. He will not visit officially his commanding officer or other superior officer unless directed to do so.
4. His applications and requests of every nature will be made in writing.

Q. What is the rule in regard to placing medical officers in arrest?

A. In ordinary cases, where inconvenience to the service would result, a medical officer will not be placed in arrest until the court-martial convenes for his trial.

Q. What action is necessary in placing a soldier in confinement?

A. Except as provided in the A. W. 68 (ante), or when restraint is necessary, no soldier will be confined without the order of an officer, who shall previously inquire into his offence. It

proper, however, for a company commander to delegate to the noncommissioned officers of his company the power to place enlisted men in arrest when restraint is necessary, but such action must be reported at once to the company commander.

Q. What is the status of noncommissioned officers in arrest?

A. They will not be called upon to perform any duty in which they may be called upon to exercise authority or control over others. When placed in confinement, they will not be sent out to work.

Q. Who may arrest deserters from the military service?

A. Any civil officer having authority under the laws of the United States or of any State, Territory, district or possession of the United States.

Any citizen, under an order or by direction of a military officer.

Q. What is a military charge?

A. A military charge corresponds to a civil indictment. It consists of two parts—the technical charge and the specification. The former alleges the offence in general terms, and the latter sets forth the facts constituting the same.

Q. What requirement must a charge fulfil?

A. It must be laid under the proper Article of War or other statute.

Q. What requirements must the specification fulfil?

A. It must set forth in simple and concise language facts sufficient to constitute the particular offence; and in such manner as to enable a person of common understanding to know what is intended.

Q. Who may prefer charges?

A. Any officer. This includes officers of the Army on the retired list and those of the Officers' Reserve Corps in active service. An officer is not disqualified by reason of the fact that he himself is under charges or in arrest.

Q. What is the rule regarding the numbering of charges and specifications?

A. Where there are several specifications under one Article of War the usual manner is to place them all under one charge, rather than to make several charges with one specification under

each. Where there are several specifications under one charge they will be consecutively numbered, and where there are several charges, the same will be consecutively numbered.

Q. To what statements should a charge be limited?

A. To a designation of the Article of War violated.

Q. What elements should a specification contain?

- A. 1. The name, rank, title, and organization of the accused person, if he belongs to the Army of the United States, should be stated. If the accused is a civilian, he should be so described as to establish the fact that he is subject to trial by military tribunals.
2. The facts constituting the offence charged will be set forth briefly but clearly, together with the place and time of commission. Care should be taken that all the elements of the offence as described in the Article of War, or the other statute, are set forth. The specification must be appropriate to the charge.

Q. What is the routine procedure in preparing and forwarding charges against an enlisted man?

A. All charges, for trial by court-martial, will be prepared in triplicate. The prescribed charge-sheet will be used as a first sheet, ordinary paper being used for such additional sheets as may be necessary.

They will be accompanied:

- (a) Except when the trial is to be had by summary court, by a brief statement of the testimony expected from each material witness, both for the prosecution and for the defense, together with all available and necessary information as to any other actual or probable testimony or evidence in the case; and
- (b) In the case of a soldier, by properly authenticated evidence of convictions, if any, during the preceding year of his current enlistment.

The charges are forwarded by the officer preferring them

to the officer exercising summary court-martial jurisdiction over the command to which the accused belongs who will refer them to a court-martial in his jurisdiction for trial, or forward them to the next superior authority exercising court-martial jurisdiction over the command to which the accused belongs or pertains.

(c) When trial is to be had by summary court, the completed charges become the record of trial. A copy will be completed and sent to the company or other commander. A second copy will be completed and forwarded to the officer exercising general court-martial jurisdiction over the command.

(d) When trial is had by special or general court-martial, two copies of the charges will be referred to the trial judge-advocate, one copy to be furnished by him to the accused. The third copy will be used for purposes of record in the office of the officer appointing the court.

Q. What investigation is made before charges for trial by general court-martial are forwarded?

A. The officer exercising summary court-martial jurisdiction over the command to which the accused pertains either carefully investigates the case himself or causes an officer other than the officer preferring the charges to investigate them carefully and report to him the result of such investigation. The officer investigating the charges will afford to the accused an opportunity to make any statement, offer any evidence, or present any matter in extenuation that he may desire to have considered in connection with the accusation against him.

Q. What elements must be included in the endorsement by which charges are forwarded to superior authority?

- A. 1. The name of the officer who investigated the charges.
2. The opinion of such officer as to

whether the several charges can be sustained.

3. The substance of the statement, if any, that the accused may voluntarily make in connection with the case.
4. A summary of the extenuating circumstances, if any, connected with the case.
5. His recommendation as to the action to be taken.

Q. What period is allowed the accused to prepare for his defence?

A. Five days.

Q. What is the procedure of a General Court-Martial?

A. The following is the order of institution and procedure of a General Court-Martial:

1. The order instituting the court is issued from the headquarters of the officer competent to appoint a general court-martial. The body of this order designates the date, hour, and place where the court is to meet; details the members of the court by rank, name, and organization in the order of their relative rank; details the judge advocate of the court by his rank, name and organization; and authorizes the appointment of a stenographic reporter and the necessary travel.

2. The members of the court assemble at the place and hour designated in the order for the first session of the court. Thereafter, they meet in accordance with the adjournment, which is usually "to meet at the call of the president." When the court is detailed to try a number of cases this procedure is usually modified by having the first meeting on notice by the president, through the judge advocate, that there is business to be transacted.

The members of the court wear the uniform prescribed by the president (usually dress), and sabers. The judge advocate, the accused and his counsel wear the same uniform as the court, without side arms. Military witnesses wear the uniform of the court, with side arms. When an enlisted man is tried for desertion, he appears before the court in the dress that he wore at the time of his apprehension or surrender.

3. When the court is ready to pro-

ceed, the members take seats at a table provided for the purpose. The president sits at the head of the table. The other members at his right and left, alternately, according to relative rank. The judge advocate sits at the foot of the table or at a separate table. The accused and his counsel sit at a table conveniently placed. A witness, when testifying, is seated near the judge advocate, and the reporter is placed near the witness' chair. The interpreter is located at a convenient place (see figure).

4. After the members of the court are seated, the judge advocate calls the roll, using the order instituting the court, after which he announces the result to the president as: *Sir, all are present, or so and so is absent*, stating the cause or authority for the absence if it is known. The president directs the judge advocate: *"Proceed with the business of the court."*

5. The judge advocate then causes the accused, his counsel, the reporter, and interpreter to enter the court room and, while he and they remain standing, announces: *The judge advocate is prepared to proceed with the case of the United States versus Private John Doe, Company "K," 48th Infantry.*

The president announces: *If there is no objection, the court will proceed to the trial of Private Doe.*

The judge advocate announces: *The accused desires to introduce First Lieutenant William Williams, 48th Infantry, as his counsel, or, in case the accused does not desire counsel, the judge advocate states: The accused states that he does not desire counsel.*

6. The reporter of the court is then sworn by the judge advocate, administering the following oath, both standing: *You swear (or affirm) that you will faithfully perform the duties of reporter to this court. So help you God.*

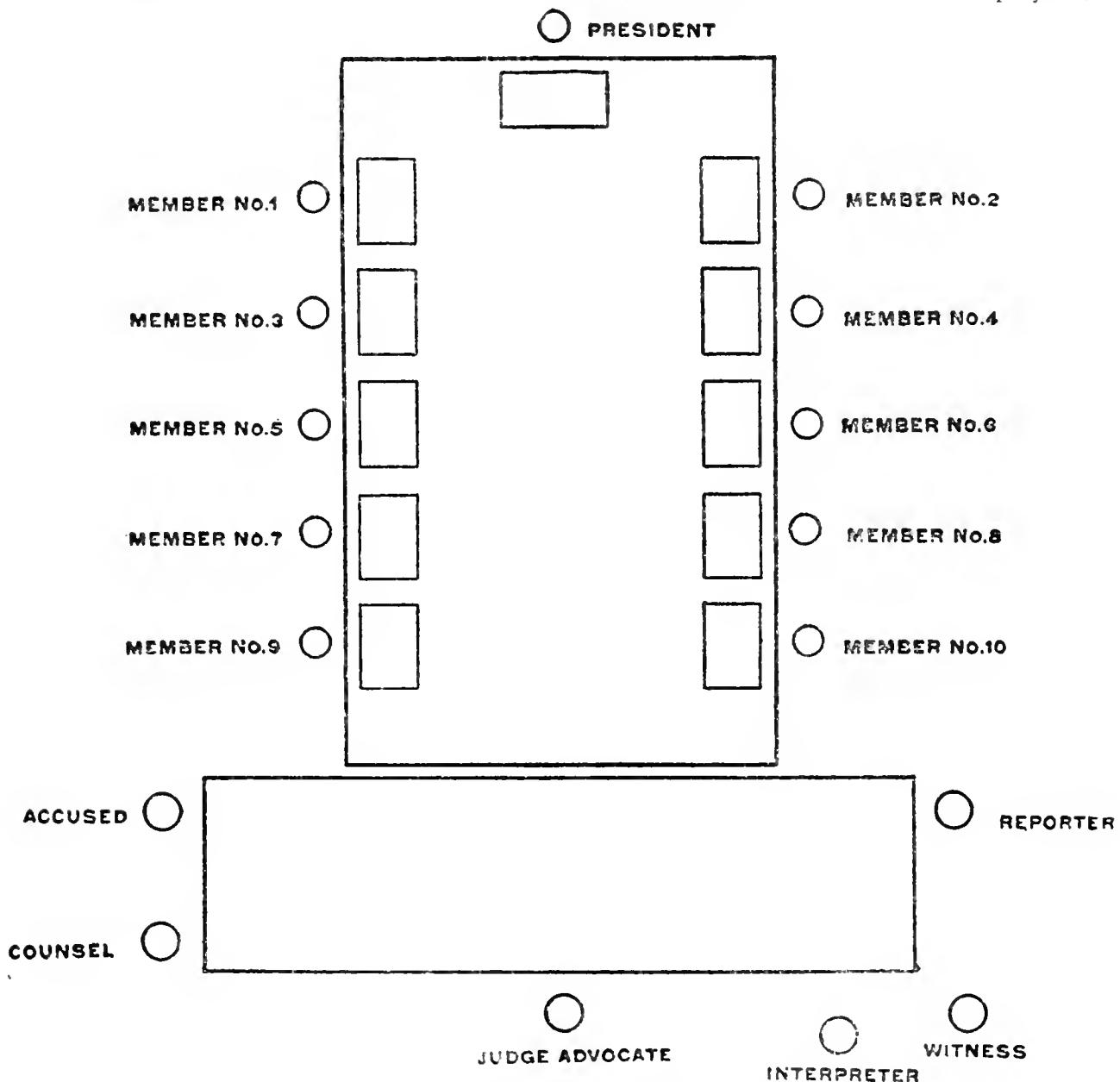
6a. The judge advocate asks the accused if he desires a copy of the record of his trial, and gives the reporter the necessary instructions.

7. The judge advocate and the accused stand up. The judge advocate reads aloud to the accused the order convening the court, and together with

any other orders modifying the detail, and states to the accused: *Of the officers named in this order (or these orders), the following are present* (names the officers of the court present). *Have you any objection to being tried by any officer present?* This is known in military law as "the right of challenge."

of the accused: *The accused objects to Captain Jones, on the ground that (stating the grounds upon which the objection is based).* The challenged member is then given an opportunity to make a statement in reply to the challenge.

NOTE.—A positive declaration by the challenged member that he is not prejudiced



NOTE.—Members of a general or special court-martial may be challenged by the accused or by the judge advocate, but only for cause stated to the court. The court determines the relevancy and validity thereof, and does not receive a challenge to more than one member at a time. (18th Article of War.)

Should the accused object to being tried by any member of the court present, the counsel would state in behalf

against the accused, nor interested in the case, is ordinarily satisfactory to the accused.

If the statement is not satisfactory to the accused, he may at this time state: *I am not satisfied with the statement of Captain Jones and request that he be put upon his voir dire.* The judge advocate and the challenged member standing, the judge advocate administers the following oath to him: *You swear that you will true answers make*

to questions touching upon your competency as a member of the court in this case. So help you God. The member is then examined by the accused (generally through his counsel), in the same manner that a juror is examined in criminal courts. Upon the completion of this examination the president announces: *The court will be closed.*

8. The challenged member, the accused and his counsel, and spectators, if any; the judge advocate, the reporter, the interpreter, withdraw from the court room and the court is said to be "closed." The remaining members of the court deliberate upon the question as to whether or not the challenged member shall sit as a member of the court in the case. They arrive at a decision by vote, beginning with the junior member, the majority carrying the decision.

NOTE.—Courts are liberal in passing upon challenges and, when there is any valid reason given, sustain them.

Having arrived at a decision, the president announces that the court is opened and the judge advocate is so notified. This is generally done by ringing a bell.

9. Those who withdrew now enter the court room and take their places and the president announces the decision of the court as: *The objection to Captain Jones is sustained, and he will be excused as a member of the court in this case, or The objection to Captain Jones is not sustained and he will sit as a member of the court in this case.*

If the challenged member be excused, he will immediately withdraw. All members of the court junior to him in rank will change their seats so as to preserve the prescribed arrangement of the court according to rank.

The judge advocate then interrogates the accused: *Have you any objection to any other member of the court, present?* Should the accused have objection, he will challenge the member objected to and the same procedure as above will be observed. If he does not object to any other member he will state: *There is no further objection.* The judge advocate may now in like manner challenge any member of the court.

Should any member of the court believe himself to be the accuser in the case, he will at this point formally announce that fact to the court, whereupon he will be excused. When the judge advocate, the accused, his counsel, or any member of the court has reason to believe that any member thereof may be called as a witness for the prosecution, such belief shall be communicated to the court and, if the judge advocate states that the member is to be called, he will be excused. When there are no further challenges to be considered by the court, the president announces: *The court will be sworn.*

10. All the members of the court, the judge advocate and all other persons in the court room stand, and the following oath is administered by the judge advocate—who holds right hand uplifted—to the members of the court: *You (naming each member of the court present) do swear (or affirm) that you will well and truly try and determine, according to the evidence, the matter now before you, between the United States of America and the person to be tried, and that you will duly administer justice, without partiality, favor or affection, according to the provisions of the rules and articles for the government of the Armies of the United States, and if any doubt should arise not explained by said articles, then according to your conscience, the best of your understanding, and the custom of war in like cases, and you do further swear (or affirm) that you will not divulge the findings or sentence of the court until they shall be punished by the proper authority, except to the judge advocate and assistant judge advocate; neither will you disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a witness by a court of justice in due course of law. So help you God.*

As the name of each member of the court is called he raises his right hand and retains it in that position until the reading of the oath is completed and acknowledged.

While all remain standing, the presi-

dent of the court administers the following oath to the judge advocate: *You (naming the judge advocate) do swear (or affirm) that you will not divulge the findings or sentence of the court to any but the proper authority until they shall be duly disclosed by the same. So help you God.*

Upon completion of the swearing of the court and the judge advocate, the court is said to be organized.

11. At this point, if there is an interpreter, he is sworn by the judge advocate—both standing—with the following oath: *You swear (or affirm) that you will truly interpret in the case now in hearing. So help you God.*

12. If a delay in the case is necessary, either on the part of the prosecution or the defence, it should be made at this time.

13. The judge advocate then reads the charges and specifications preferred against the accused and the accused is called upon to plead to them. In case of several charges and specifications, the order pursued is to arraign on the first, second, etc., specifications to the first charge, then on the first charge, and so on with the rest. During the reading of the charges the judge advocate and the accused stand. The judge advocate puts the question to the accused after the reading of each specification and charge: *How plead you?* All of this constitutes the arraignment.

14. The accused is called upon to plead to each charge and specification. Ordinarily the plea of the accused is *guilty* or *not guilty* to each charge and specification; or, *guilty of a specifications excepting certain words, and of the excepted words not guilty;* or when charged with an offence which includes a lesser one of kindred degree, *guilty of the specification except certain words, substituting certain other words,* and to the charge *not guilty, but guilty of the lesser kindred offense.*

For example: in a trial for desertion, the accused, by substituting words in the specification that covers the offence of absence without leave, may plead guilty to them, but not guilty to the part of the specification that covers desertion. In the charge, he may substi-

tute: *as not guilty of desertion but guilty of absence without leave.*

The pleas are generally entered by the counsel on behalf of the accused. If the accused questions the jurisdiction of the court he may here enter a plea to the jurisdiction, or, if any other plea is appropriate, it must be entered at this time. For example: a plea in abatement, or a plea in bar of trial.

15. Should the accused plead guilty, the president of the court will halt the proceedings and explain to the accused the meaning of such a plea, ask him if he understands the same, and question him to such extent that there can be no misunderstanding of the action he has taken in pleading guilty. He will explain to the accused the penalty that the court may impose for such an offence and make certain that the accused fully understands it.

16. The prosecution, conducted by the judge advocate, then begins the presentation of the case. The judge advocate announces: *The judge advocate desires to introduce (naming the witness) as a witness for the prosecution.* The witness enters. The judge advocate directs him to hold up his right hand. (If he is wearing gloves, the judge advocate directs him to remove the right-hand glove). The following oath is administered by the judge advocate, both he and the witness standing: *You swear or affirm that the evidence that you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth. So help you God.*

The judge advocate directs the witness to be seated in the witness chair and cautions him to speak slowly and distinctly to the court in order that all may hear what he has to say. The judge advocate then proceeds to the direct examination of the witness, in the case of a military witness, by asking: *State your name, rank, organization and station, or in the case of a civilian witness, State your name and residence.* Then follows the identification of the accused: *Do you know the accused? If so, state who he is.*

Then follow any other questions that the judge advocate desires to ask

the witness in the prosecution of the case.

17. At the conclusion of the direct examination, the judge advocate announces that fact and the witness is turned over to the defence for the cross-examination by the counsel for the accused. The judge advocate is then given an opportunity to re-examine the witness and the defense to re-cross-examine the witness. At the conclusion of all this the president inquires: *Questions by the members of the court?* and the members of the court are then permitted to ask any questions they desire. Upon the completion of this, the witness is excused.

18. Should a question be asked of a witness, either by the prosecution or by the defence, to which objections is made by the opposite party in the case, the party objecting will announce, before the witness has had an opportunity to answer: *I object to that question*, after which he states the grounds upon which the objection is based. The opposite party is then given an opportunity to reply to the objection and, after all conversation on the matter has been concluded, the president announces: *The court will be closed*. All persons in the court room, other than the members of the court, will withdraw. The court deliberates the question and a vote is taken on the subject, starting with the junior member of the court. The majority rules. If there is a tie vote, the proposition is lost. The president announces: *The court is opened*. Those who withdrew are recalled, as indicated in paragraph 8. The president announces: *The objection is sustained, and the question will not be answered*, or, *The objection is not sustained, and the witness will proceed to answer the question*. In the latter case the question is again asked and the witness required to answer.

19. After all the witnesses for the prosecution have been examined the judge advocate will introduce any documentary evidence he may have to place before the court for its consideration. Documentary evidence may be introduced at any time, though the rule is

that it will be introduced at the conclusion of the examination of the witnesses for one side or the other.

After the judge advocate has concluded his side of the case for the government he announces: *The prosecution here rests*. The witnesses for the defence are then called as indicated by the counsel for the accused and their examination proceeds as for those of the prosecution. The counsel for the accused conducts the direct examination and the judge advocate the cross-examination. The defence then submits any documentary evidence that it desires considered and, when there is nothing further, the counsel announces: *The accused desires to be sworn as a witness in his own behalf*, or, *The accused desires to make a verbal statement in his own behalf*, or, *The accused desires to submit a written statement in his own behalf*. In the first case, where the accused is sworn as a witness in his own behalf, he is examined by the counsel for the defence and is subject to cross-examination by the judge advocate and to questions by members of the court. In the second case the accused merely makes a verbal statement to the court, which is unsworn, and may be taken for what it is worth; in the third case the accused submits a written statement to the court which is read by the judge advocate and appended to the record of the court as a part of the record in the case.

20. Following this, the counsel for the defence is given an opportunity to make a summing up of the case and an argument for the accused. This is followed by the action of the judge advocate who may make answer to the argument of the defence. In case the judge advocate has nothing further, he announces: *The judge advocate submits the case without remark*. In any event, the judge advocate, on behalf of the government, has the last word in the case. The president announces: *The court will be closed*.

21. All persons in the court room withdraw except the members of the court, who proceed to a finding in the

case. After deliberating over the case to such extent as may be necessary and discussing it to the extent desired by the members, the president announces: *In the absence of objection, we will proceed to vote on a finding in this case.*

The president reads, or causes to be read, the first specification and then calls upon each member, starting with the junior, to register his vote on the finding. The remaining specifications to a charge are taken up in their order and each voted on in like manner. Then, the charge is voted on. The members register their votes: *guilty* or, *not guilty*, or, *sustain the plea*, or, *guilty as plead*. The president of the court records the votes and announces the result at the end of each voting period. The majority rules. In case of a tie in the vote upon a certain specification the finding is "not guilty," in other words, the accused is given the benefit.

22. After arriving at a finding on all the specifications and charges, and having verified same, the president announces: *The court will be opened.* The judge advocate is notified and the parties that withdrew return to the court room as in paragraph 8. The president inquires: *Is there anything further to submit in this case?*

If there is nothing further, the judge advocate so announces. If there is evidence of previous convictions that have been referred to the court by proper authority, the judge advocate announces: *The judge advocate has the following evidence of previous convictions to present for the consideration of the court.* The judge advocate reads the evidence of previous convictions and, after completing each case, the accused is permitted to verify the same and add such remarks as may be appropriate. The president announces: *The court will be closed.* All except the members of the court again withdraw, and the court proceeds to a sentence in the case.

23. In arriving at a sentence, after a finding of guilty, the court proceeds as follows:

(a) One member of the court is detailed to verify the maximum

limit of punishment that may be awarded in the case. This precaution is taken to avoid a sentence greater than the maximum authorized.

- (b) The president of the court calls upon members to submit sentences. Those who so desire, write out a sentence on a piece of paper and pass it to the president. When one or more have been received, the president arranges them in the order of their severity and inquires: *Are any other sentences proposed?* If there be none, the president selects the least severe sentence that has been proposed, reads it, and calls for a vote on it.
- (c) The members vote "yes," indicating that they concur in the sentence or "no," indicating that they do not concur in it. The voting starts with the junior member of the court, and proceeds as indicated previously when voting on the finding. The president records the vote and announces the result. The majority rules. If there is a tie vote the sentence is lost. In this case the court proceeds to vote in like manner upon the next least severe sentence proposed. Should this also be lost, voting is continued on sentences until one is carried. This is the sentence of the court.
24. The judge advocate is recalled and the president gives him the findings and sentence, which he preserves for record in the case. The court then proceeds to the consideration of other business or adjourns to meet at the call of the president; or adjourns to meet at a certain time; or takes a recess for such a time.
25. In the preparation of the record of a case the reporter writes up all the proceedings, entering everything that transpires during the trial, including all the evidence, objections, rulings of the court, etc. The judge advocate is

required to enter the findings and the sentence in the record in his own handwriting or on a typewriter, in which latter case he is required to certify that he personally recorded the findings and sentence. The record of the trial is signed by the president of the court and the judge advocate, sealed, and mailed to the convening authority for final action.

Q. In comparison with the proceedings of a civil court, what are the duties of the members and of the judge advocate of a court-martial?

- A. The members of the court act in the capacity of both judge and jury.
- 2. The judge advocate is the prosecuting attorney, or state's attorney.

Q. What action is taken by a member of the court when he is unable to attend a session?

- A. He will communicate the cause to the judge advocate, and the same will be entered on the record of the proceedings.

Q. Who is the president of a general court-martial?

- A. The president of the court is not announced. The senior officer present acts as president.

Q. What are the duties of the president of a general court-martial?

- A. 1. He has the ordinary duties and privileges of the member of a court.
- 2. He is the organ of the court to maintain order and conduct its business.
- 3. He speaks and acts for the court in every instance where a rule of action has been prescribed by law, regulations or its own resolution.
- 4. He administers the oath to the judge advocate.
- 5. He authenticates by his signature, all acts, orders and proceedings of the court requiring it.
- 6. He takes the proper steps to insure prompt trial and disposition of all charge referred to the court and keeps the court advised thereof.

Q. What are the duties of the judge advocate with regard to the accused prior to the assembling of the court for his trial?

- A. 1. He should acquaint the accused with the accusations against him.

- 2. He should inform him of his right to have counsel, and arrange for the detail of counsel when one is desired by the accused.

- 3. He should inform him of his right to testify in his own behalf or to make a statement to the court.

- 4. He should furnish him with a copy of charges against him if so desired.

- 5. He may ask the prisoner how he intends to plead; but, when the accused is an enlisted man, he should in no case try to induce him to plead guilty or leave him to infer that if he does so his punishment will be lighter.

Q. When the accused decides to plead "Guilty," what are the duties of the judge advocate towards him?

- A. 1. Advise him of his right to introduce evidence in explanation of his offence, and assist him in securing it.
- 3. During the trial he will see that the accused has full opportunity to interpose such pleas and make such defence as may best bring out the facts, the merits, or the extenuating circumstances of the case.
- 3. In so far as such action may be taken without prejudice to the accused, any advice given him by the judge advocate should be given or repeated in open court and noted on the record.

Q. What are the duties of a judge advocate with respect to the witnesses before the trial of a case begins?

- A. He will summon the necessary witnesses, make a preliminary examination of those for the prosecution, and, as far as possible, systematize his plans for conducting the case.

Q. What are the duties of a judge advocate during the trial of a case?

- A. 1. He conducts the case for the government and prepares the record.
- 2. He executes all the orders of the court.
- 3. He reads the convening order to the accused; swears the members of the court, the interpreter, the reporter and all witnesses.
- 4. He arraigns the accused; examines the witnesses.
- 5. He keeps or superintends the keeping of an accurate record of the proceedings and affixes his signature to each day's proceedings.

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- Q. What are the duties of the counsel of the accused?*
- A. He should guard the interests of the accused by all honorable and legitimate means known to the law, as far as consistent with military interests. He should not obstruct the proceedings with frivolous and manifestly useless objections.
- Q. May a soldier be detailed as the stenographer of a court?*
- A. He may. He will be allowed extra pay at the rate of 5 cents for each 100 words taken in shorthand and transcribed.
- Q. Under what conditions is a challenged member of a court excused?*
- A. 1. That he sat as a member of a court of inquiry that investigated the charges.
2. That he has personally investigated the charges and expressed an opinion thereon, or that he has formed a positive and definite opinion as to the guilt or innocence of the accused.
3. That he is the accuser.
4. That he is to be a witness for the prosecution.
5. That (upon a rehearing of the case) he sat as a member on a former trial.
6. That, in the case of the trial of an officer, the member will be promoted by dismissal of the accused.
7. That he is related by blood or marriage to the accused.
8. That he has a declared enmity against the accused.
- Q. May the judge advocate challenge members of the court?*
- A. While there is no statutory authority for it, the practice is that he may.
- Q. What action is taken by a member of a court who has not been challenged, but, nevertheless, believes himself to be disqualified?*
- A. He may announce his disqualification in open court in order that he may be challenged, or he may apply to the appointing authority to be relieved.
- Q. What are the different pleas in court-martial procedure?*
- A. 1. Plea to the jurisdiction.
2. Plea in abatement.
3. Plea in bar of trial.
4. Plea to the general issue.
- Q. What is a plea to the jurisdiction?*
- A. A plea to the jurisdiction denies the right of the court to try the case.
- Q. What are the grounds for the plea to the jurisdiction?*
- A. 1. That the court was appointed by an officer who did not have the legal authority to do so.
2. That it is composed wholly or in part of members not authorized to sit upon such a court-martial.
3. That the accused is not subject to the jurisdiction of the court.
4. That the court has not the legal power to try the offense charged.
- Q. What is a plea in abatement?*
- A. It is based upon some defect in the charge or specification, and is one that operates merely to delay the trial. An accused who submits a plea in abatement must show how the error may be corrected. The judge advocate will correct the error so as to meet the objection, and the trial proceeds.
- Q. What are the pleas in bar of trial?*
- A. 1. Statute of Limitations.
2. Pardon.
3. Constructive condonation.
- Q. What is the Statute of Limitations?*
- A. They are statutes of which the accused may take advantage, thereby depriving the Government of the power to try or punish him after the lapse of a specified

period following the commission of the offense. They are enacted to secure the prompt punishment of criminal offenses, and to obtain the attendance of the witnesses at the trial while the recollection of the event is still fresh in their minds. In court-martial practice, prosecutions are limited both as to time and as to number.

Q. For what crimes are there no statutes of limitations?

- A. 1. Desertion in time of war.
- 2. Mutiny.
- 3. Murder.

Q. In what cases is the statutory period extended to three years?

- A. 1. Desertion in time of peace.
- 2. The crimes (felonies) enumerated under the 93rd Article of War.
- 3. The crimes and offenses (Frauds against the Government) enumerated in the 94th Article of War.

Q. What is the ordinary period of the statute of limitations?

- A. Two years.

Q. How is the time of the statute of limitations computed?

- A. The point at and from which the period of limitation begins is the date of the commission of the offense. The point at which the period of limitation terminates, and from which said period is to be reckoned back, is the date of the arraignment of the accused.

Q. What periods of time are excluded in the computation of the period of limitation?

- A. 1. The period of any absence of the accused from the jurisdiction of the United States.
- 2. Any period during which, by reason of some manifest impediment, the accused shall not have been amenable to military justice.

Q. In military practice may a person be tried twice for the same offense?

- A. He may not.

Q. What constitutes a "trial?"

- A. When the accused has been duly convicted or acquitted by a court-martial he has been "tried."

Q. What is meant by pardon?

- A. A pardon is the act of the President which exempts the individual on whom

it is bestowed from the punishment which the law inflicts for the crime that he has committed.

Q. What is meant by constructive condonation?

- A. Where a deserter has been restored to duty, without trial, by the authority competent to order his trial, this action is regarded as a constructive condonation of the offense and may be pleaded in bar of trial subsequently ordered.

Q. What are some of the inadmissible special pleas?

- A. 1. Former punishment; that is, the accused has already been adequately punished by his commanding officer for the offense.
- 2. Illegal enlistment; that is, that the accused claims to have enlisted under age, without the necessary consent of his parents or guardian.
- 3. Release from arrest.
- 4. Undergoing sentence of a court-martial.
- 5. Long delay in bringing to trial, but within the period of the statutes of limitation.
- 6. Malice of the accuser.
- 7. Bad character of the accuser.
- 8. Intoxication.
- 9. Insanity.
- 10. Obedience to military order.
- 11. Mistake of fact or law.

Q. What are the pleas to the general issue?

- A. Usually the plea of the accused is "guilty" or "not guilty" to each charge and specification; or, guilty to a specification, excepting certain words, and to the excepted words not guilty; or, as when charged with an offense which includes a lesser one of a kindred nature, guilty to the specification excepting certain words and substituting therefor certain others, to the excepted words, "guilty," and to the substituted words, "guilty," and to the charge not guilty, but guilty of the included lesser offense.

Q. When a plea of guilty is entered, does that exclude evidence being taken?

- A. It does not. The court should take evidence after a plea of guilty, except when the specification is so descriptive as to disclose all the circumstances of mitigation or aggravation.

Q. What action is taken upon a plea of guilty entered by the accused?

A. The president of the court is required to explain:

1. The various elements which constitute the offense charged.
2. The maximum punishment which may be adjudged by the court for the offense to which the accused has pleaded guilty.

NOTE.—The accused will then be asked whether he fully understands that, by pleading guilty to such a charge or specification, he admits having committed all the elements of the crime or offense charged, and that he may be punished as stated. If he replies in the affirmative, the plea of guilty will stand; otherwise a plea of not guilty will be entered.

Q. When an accused pleads guilty and thereafter makes a statement at variance with his plea, what action is taken?

A. The plea of guilty is withdrawn and a plea of not guilty substituted therefor.

Q. May a plea of "guilty, without criminality" be entered.

A. No. It is the same as a plea of not guilty.

Q. What action is taken when an accused refuses to plead, stands mute, or answers irrelevantly?

A. The court proceeds to trial and judgment as if he had pleaded "not guilty."

Q. What is a nolle prosequi?

A. A declaration of record on the part of the prosecution that it withdraws a charge or specification from the investigation and will not prosecute the same at the trial.

Q. Who has authority to enter a nolle prosequi?

A. The convening authority.

Q. What are the principal grounds for nolle prosequi in court-martial practice?

- A. 1. The fact that the charge or specification is discovered to be substantially defective and insufficient in law.
2. That it is ascertained the allegations cannot be proved.
3. That the testimony available is not sufficient to sustain the allegations.
4. That the criminality of one of the accused, where there are several, cannot be established.
5. That it is proposed to use one of the accused as a witness.

Q. Who procures the attendance of witnesses before a court-martial?

A. The judge advocate.

Q. How is the attendance of witnesses ordinarily secured?

- A. 1. Persons in the military service stationed at or near the place of trial:
 - (a) By informal notice served by the judge advocate upon the person concerned.
 - (b) If for any reason a formal notice is required, the judge advocate will request the commanding officer to order the witness to attend.
 2. Persons in the military service stationed at points distant from the place of trial, when mileage is involved: The judge advocate will request that orders issue for witness to attend.
 3. Civilian witnesses: The judge advocate will endeavor to secure attendance by correspondence, sending the witness subpoenas in duplicate and a request to accept service by correspondence. If such informal methods are ineffective, formal duplicate subpoena will be issued by the judge advocate for service on the witness. If the witness is at or near the post where the court is sitting, service may be made by the judge advocate or by a person designated by him. If the witness is at or near another post, the judge advocate will send the subpoena direct to the commanding officer of such post, requesting the service of same. If the witness does not reside near any military post or command, the judge advocate will send the subpoena to the department commander requesting service.
- Q. In what class of cases are depositions prohibited?*
- A. They cannot be introduced by the prosecution in capital cases.
- Q. What is a subpoena duces tecum?*
- A. It is a subpoena requiring a person to present himself before the court, bringing with him certain books, papers or documents which it is desired to introduce in evidence.
- Q. How may the attendance of a civilian witness be compelled?*
- A. By a warrant of attachment.

Q. What action is taken when a warrant of attachment becomes necessary?

- A. 1. The judge advocate will issue the warrant of attachment and deliver it to the officer designated by the department commander for execution.
- 2. The following papers will accompany the warrant of attachment.
 - (a) The original order (and modifying orders) appointing the court for the trial of the case in which the witness is to testify.
 - (b) A copy of the charges and specifications in the case as referred for trial.
 - (c) The original subpoena, with the proof of service.
 - (d) An affidavit of the judge advocate or summary court officer that the person being attached is a material witness in the case; that he has failed and neglected to appear, although sufficient time has elapsed for that purpose; and that no valid excuse has been offered for such failure to appear.

Q. What action is necessary when force has to be resorted to to compel the attendance of a witness?

- A. The post commander nearest the residence of the witness will furnish a military detail sufficient to execute the process.

Q. If, while serving a warrant of attachment for a witness, an officer is served with a writ of habeas corpus from a United States Court or a United States Judge, what action is taken?

- A. 1. The writ will be promptly obeyed.
- 2. The person alleged to be illegally restrained of his liberty will be taken before the court from which the writ has issued.
- 3. A return will be made setting forth the reasons for the restraint.
- 4. The officer upon whom such a writ is served will at once report by telegraph the fact of such service direct to the Adjutant General of the Army and to the Commanding General of the department.

Q. If a writ of habeas corpus is issued by a

state court or judge, what action is taken?

- A. 1. The officer will make respectful return, in writing, informing the court that he holds the person named in the writ, by authority of the United States, pursuant to a warrant of attachment, issued under Section 3 of the Act of Congress, approved August 29th, 1916, by a judge advocate of a lawfully convened general, special (or summary) court-martial, and that the Supreme Court of the United States has decided that state courts and judges are without jurisdiction in such cases.
- 2. After having made the return, it is the duty of the officer to hold the prisoner in custody under his warrant of attachment, and to refuse obedience to the mandate or process of any government except that of the United States.
- 3. It is the duty of the officer not to take the prisoner, nor suffer him to be taken, before a state judge or court upon a writ of habeas corpus issued under state authority.

Q. What action is taken when a civilian witness, who has been duly subpoenaed before a general court-martial, refuses to appear or qualify as a witness?

- A. He will at once be tendered or paid, by the nearest quartermaster, one day's fees and mileage for the journeys to and from the court and will thereupon be again called upon to comply with the requirements of the law.

The 23rd Article of war (new) provides:

Every person not subject to military law, who, being duly subpoenaed to appear as a witness before a military court, commission, court of inquiry, or board, or before any officer, military or civil, designated to take a deposition to be read in evidence before such court, commission, court of inquiry, or board, wilfully neglects or refuses to appear, or refuses to qualify as a witness, or to testify, or produce documentary evidence which such person may have been legally subpoenaed to produce, shall be deemed guilty of a misdemeanor, for which such person shall be punished on information in the district court of the United States, or in a court of original criminal jurisdiction in any of the territorial possessions of the United States, jurisdiction hereby being conferred upon such courts, for such purpose; and it shall be the duty of the United States District Attorney or other officer prosecuting for the government in any such court of

original criminal jurisdiction, on the certification of the facts to him by the military court, commission, court of inquiry, or board, to file an information against and prosecute the person so offending, and the punishment of such person, on conviction, shall be a fine of not more than \$500, or imprisonment not to exceed six months, or both, at the discretion of the court: Provided that the fees of such witness and his mileage, at the rates allowed to witnesses attending the courts of the United States, shall be duly paid or tendered said witness, such amounts to be paid out of the appropriation for the compensation of witnesses.

Q. May a court-martial punish for contempt?

A. A court-martial may punish, at discretion, subject to the limitations in A. W. 14 (with respect to summary courts) any person who uses any menacing words, signs or gestures in its presence, or who disturbs its proceedings by any riot or disorder. Such punishments require the approval of the reviewing authority in order to become effective.

Q. Under what circumstances are depositions admissible before court-martial?

A. A duly authenticated deposition, taken upon reasonable notice to the opposite party, may be read in evidence before any military court or commission in any case not capital; or in any proceeding before a court of inquiry or a military board, if such deposition is taken in cases where the witness resides, is found, or is about to go, beyond the state, territory or district in which the court, commission, or board is ordered to sit; or beyond the distance of 100 miles from the place of trial or hearing; or when it appears to the satisfaction of the court, commission, or board, or appointing authority that the witness, by reason of age, sickness, bodily infirmity, imprisonment, or other reasonable cause, is unable to appear and testify in person at the place of trial or hearing; provided, that testimony by deposition may be adduced for the defense in capital cases.

Q. What is the procedure when depositions are to be taken?

A. 1. All the interrogatories to be propounded are entered on the form for interrogatories and deposition, and the trial judge-advocate, summary

court officer, or recorder will take appropriate steps to cause the desired deposition to be taken with the least practicable delay.

2. In an ordinary case he will either send the interrogatories to the commanding officer of the post, recruiting station or other military command at or near which the person whose deposition is desired is stationed, resides or is understood to be; or will send them to some other responsible person, preferably a person competent to administer oaths, at or near the place at which the person whose deposition is desired is understood to be. In a proper case, the interrogatories may be sent to the department or superior commander or to the witness himself, and in any case they will, when necessary, be accompanied by a proper explanatory letter.
3. When interrogatories are received by a commanding officer he will either take, or cause to be taken, the deposition thereon. He may send an intelligent enlisted man—preferably a noncommissioned officer, if available—to the necessary place for the purpose of obtaining the deposition, or he may arrange by mail or otherwise that the deposition be taken. The deposition will be taken with the least practicable delay and, when taken, will be sent at once direct to the judge advocate of the court-martial trying the case.
4. If the witness whose deposition is desired is a civilian, the judge advocate, or other person sending interrogatories, will inclose with them a prepared voucher for the fees and mileage of the witness, leaving blank such spaces therein as may be necessary, together with the required number of copies of the order appointing the court, commission or board. The judge advocate, summary court officer, or recorder will also send with the interrogatories a subpoena in duplicate requiring the witness to appear in person at the time and place to be fixed by the officer, military or civil, who is to take the deposition. If the name of this officer is not known, the space provided for it will be left blank.

5. If a military officer takes the deposition, he will complete the witness voucher, certify it, and transmit it to the nearest disbursing quartermaster for payment.
6. When the deposition is taken by a civil officer, he will be asked to obtain and furnish to the military officer, requested or designated to take the deposition or cause it to be taken, the necessary data for the completion of the witness voucher, and the latter will complete the voucher, certify it, and transmit it to the nearest disbursing quartermaster for payment.
7. In the case of military witnesses, subpoena will not accompany the interrogatories, but the officer before whom the deposition is to be taken will take the necessary steps to have the witnesses appear at the proper time and place.

Q. What is the duty of the court with respect to the protection of witnesses?

A. It is the duty of the court to protect every witness from irrelevant, insulting, or improper questions; from harsh or insulting treatment, and from unnecessary inquiry into his private affairs. The court must forbid any questions which appear to be intended to insult or annoy any witness, or which, though proper in themselves, appear to be needlessly offensive in form.

Q. Under what conditions may evidence of character and the services of the accused be important?

1. When the evidence of the guilt is not strong and the good reputation of the accused will strengthen the presumption of innocence.
2. When the punishment is discretionary, such evidence may be introduced with a view to inducing the court to impose a milder sentence.
3. When the punishment is mandatory, such evidence may be introduced with a view to inducing the court to recommend clemency.
4. In any case, such evidence may be introduced with a view to inducing the reviewing authority to extend clemency.

Q. Is evidence of the bad character of the accused admissible?

- A. It is not. If the accused takes the wit-

ness stand in his own behalf, his veracity as a witness may be attacked as in the case of any other witness.

Q. May the accused appear as a witness in his own behalf?

A. Yes. The accused "shall at his own request, but not otherwise, be a competent witness. His failure to make such request shall not create any presumption against him."

Q. What procedure is required when the accused declines to appear as a witness in his own behalf or to make a statement?

A. In every case tried by a general court-martial, in which the accused does not testify or make a statement in his own behalf, it must appear on record that the president of the court explained to the accused that he was privileged to testify in his own behalf if he so desire or to make an unsworn statement to the court in denial, in explanation, or in extenuation of the offense with which he stood charged. The explanation by the president, and the reply of the accused thereto, shall appear upon the record of the trial. The same rule applies in the case of a special court-martial, where the evidence is recorded.

Q. What are the general rules regarding the examination of witnesses?

A. 1. They are usually examined separately. This rule is not inflexible. It is in practice subject to the discretion of the court, and it is never so rigidly observed as to exclude the testimony of one witness because he has been present at the examination of other witnesses.

2. The examination of witnesses usually proceeds in the following sequence:

(a) Witnesses for the prosecution, direct, cross, re-direct and re-cross, examination.

(b) Witnesses for the defense in the same order as (a).

(c) Witnesses for the prosecution in rebuttal in the same order as in (a).

(d) Witnesses for the accused in rebuttal of those introduced by the prosecution, in the order specified in (a).

- (e) Witnesses for the court, in the order specified in (a).

The court may, in the interest of truth and justice, call or recall witnesses or permit their recall at any stage of the proceedings. It may permit material testimony to be introduced by either party quite out of its regular order and place, and permit a case once closed by either or both sides to be reopened for the introduction of testimony previously omitted, if convinced that such testimony is so material that its omission would leave the investigation incomplete. In all such cases, both sides must be present, and any testimony thus received is subject to cross-examination and rebuttal by the party to whom it may be adverse.

3. Leading questions which a witness may answer by "yes" or "no" should not be asked, except on cross-examination; to abridge the proceedings where the witness may be led at once to points on which he is to testify; when the witness appears to be hostile to the party calling him, or is manifestly unwilling to give evidence; where there is an erroneous statement in the testimony, evidently caused by fault of memory, and where the nature of the case is such that the mind of the witness cannot be directed to the subject under inquiry by other means.

Q. Are affidavits admissible in evidence?

A. They are not, unless expressly consented to by the judge advocate and the accused, with full knowledge of his rights.

Q. What restriction is placed upon the knowledge of the court with reference to statement of service and the evidence of previous convictions of the accused?

A. The court will not be permitted to see either until after they have arrived at a finding. The statement of service may be introduced in evidence by the accused as proof of good character.

Q. What previous convictions will be considered by a court-martial?

- A. 1. Only those covering offenses committed within the year prior to the date of the offense for which the accused is being tried, and in the current enlistment.
2. These will be considered only when they are properly referred by the convening authority.

Q. What is the object of introducing evidence of previous convictions before court-martial on the finding of guilty?

A. The object is to see if the prisoner is an old offender, and therefore less entitled to leniency than if on trial for his first offense.

Q. What is the rule regarding the punishment to be awarded?

A. That the least punishment by which discipline can be efficiently maintained is the proper amount.

Q. What are the legal punishments that general court-martials may impose upon officers?

- A. 1. Death.
2. Dismissal, with confinement at hard labor.
3. Dismissal.
4. Loss of rank.
5. Suspension from rank, command, or duty, with or without loss of pay or part of pay.
6. Fine or forfeiture of pay.
7. Confinement to limits of post or command.
8. Reprimand.
9. Admonition.

Q. What legal punishments may courts-martial impose upon enlisted men?

- A. 1. Death.
2. Dishonorable discharge.
3. Confinement at hard labor.
4. Forfeiture of pay.
5. Hard labor without confinement.
6. Forfeiture of pay and allowances.
7. Detention of pay.
8. Reprimand.

Q. What are the rules regarding the dishonorable discharge of a soldier?

- A. 1. A dishonorable discharge can be imposed only pursuant to the sentence of a general court-martial.
2. The date on which the order promulgating the sentence is received at the post where the soldier is held, is the date of discharge.
3. A sentence adjudging a dishonorable discharge to take effect at such period during a term of confinement as may be designated by the reviewing authority, is illegal.

Q. May the deposits of a soldier be forfeited by the sentence of a court-martial?

- A. They may not. They are exempt from liability to sentence of a court-martial,

imposing a forfeiture of pay and allowances. To sentence a soldier to deposit a certain amount of his pay is illegal.

Q. When a disciplinary punishment is awarded a soldier by his company commander, what record is made of it?

A. A brief record will be made showing:

1. Name of the accused.
2. Brief statement of the offense, showing time and place.
3. Statement as to whether or not the accused demanded trial by summary court.
4. Disposition of case, with date and punishment awarded.
5. Whether or not appeal was made to higher authority.
6. Decision of higher authority on appeal.
7. Whether accused was required to serve punishment pending appeal.

Q. What limitations are placed on courts-martial in imposing punishments on soldiers?

- A. 1. Punishing by branding, tattooing or marking the body, or by flogging is prohibited.
2. The following have been discarded: Carrying loaded knapsack; wearing irons; shaving the head; placarding; pillory; stocks, and tying up by the thumbs.
3. Military duty as a form of punishment tends to degrade duty and is to the prejudice of the best interests of the service. Punishment, such as imposing tours of guard duty, requiring a soldier to blow all calls for a period of time, are not imposed.
4. Solitary confinement on bread and water diet, and the placing of a prisoner in irons, are regarded as a means of enforcing prison discipline. They are not to be imposed by a court-martial as a punishment.

Q. Where are the limits of punishment that may be imposed by a court-martial upon a soldier on conviction to be found?

A. The latest executive order on the subject became operative on March 1st, 1917, as to offenses committed on and after that date, and as to criminal acts committed prior to that date, whose maximum punishment was not prescribed in the Executive Order of September 5th, 1914, published in G. O. No. 70. This

order remains operative as to offenses committed before March 1st, 1917, except as to criminal acts whose maximum punishment has been decreased by this order.

Q. What are the general limitations with regard to the punishment that a court-martial may impose on a soldier?

- A. 1. A court shall not, by a single sentence which does not include dishonorable discharge, adjudge against a soldier:
 - (a) Forfeiture of pay at a rate greater than two-thirds of his pay per month.
 - (b) Forfeiture of pay in an amount greater than two-thirds of his pay for six months.
 - (c) Confinement at hard labor for a period greater than six months.
2. A court shall not, by a single sentence, adjudge against a soldier:
 - (a) Detention of pay at a rate greater than two-thirds of his pay per month.
 - (b) Detention of pay in an amount greater than two-thirds of his pay for three months.
 - (c) Hard labor without confinement for a period greater than three months.

Q. May general prisoners be tried by summary court?

A. They may.

Q. May the summary court officer be challenged by the accused?

A. The summary court officer is not subject to challenge.

Q. What is the limit of punishment that may be imposed upon a soldier by the summary court?

- A. Not to exceed confinement at hard labor for three months, or forfeiture of three months' pay, or both; and, in addition thereto, reduction to the ranks in the cases of noncommissioned officers, and reduction in classification in the cases of first-class privates.

Q. When the summary court officer is also the commanding officer, what action is necessary with respect to a sentence of the summary court?

- A. No sentence of such summary court-martial, adjudging confinement at hard labor or forfeiture of pay, or both, for a period in excess of one month, shall

be carried into execution until the same has been approved by superior authority.

Q. What are the functions of summary courts-martial?

- A. 1. Power to administer oaths.
2. To hear and determine cases and, when satisfied of the guilt of the accused party, to adjudge the punishment to be inflicted.

The following is the procedure in the institution and conduct of a trial before a summary court-martial:

1. A summary court officer is appointed in every command by the commanding officer thereof, either in formal orders or verbally. This officer is usually the officer next in rank to the commanding officer, but may be any officer whom the commanding officer selects.
2. A soldier commits an offense for which he may be properly tried by summary court. Charges and specifications are preferred against him on the blank forms provided for that purpose. These charges are made in triplicate and forwarded to the commanding officer for his action. They are usually handed in at the adjutant's office with the morning report, but may be submitted at any time.
3. The charge sheet contains:
 1. The name and rank of the accused.
 2. Statement of service.
 3. Date of arrest or confinement.
 4. Number of previous convictions.
 5. Witnesses for the prosecution and defense.
 6. A statement of the charge.
 7. A statement of the specification.
 8. Signature of the officer preferring the charges.
4. The commanding officer determines whether or not the case shall be brought to trial and, when trial is decided upon, the charges are forwarded by indorsement to the summary court officer, the indorsement being signed by the adjutant.
5. The summary court usually sits at a stated hour daily, except Sunday (no legal objection to sitting on Sunday), at such time as will least interfere with the training of troops. The accused and all witnesses are ordered to appear

at the specified time, and the trial proceeds much in the manner of civil police courts.

6. The accused is brought before the summary court officer, who reads the charges and specifications to him and calls upon him to plead to same. The plea is usually "guilty" or "not guilty."

NOTE.—When the accused pleads guilty the summary court officer will explain to him:

- (a) The elements constituting the offense to which he has pleaded guilty, and
- (b) The maximum punishment therefor.

He will ask him whether he fully understands:

- (a) That by pleading guilty thereto, he admits all the elements of the crime or offense, and
- (b) That he may be punished as explained above.

7. Witnesses for the prosecution are called and sworn by the summary court officer, who conducts the direct examination, after which the accused is permitted to cross-examine. These are followed by the witnesses for the defense, who are likewise sworn and examined. The accused may then be sworn as a witness in his own behalf, make a statement and be cross-examined by the summary court, or he may make an unsworn statement, in which case he is not subject to cross-examination.

8. After all the evidence has been presented in the case, the summary court officer arrives at a finding and enters the same in the appropriate space on the blank form. This is followed by the sentence he imposes on the accused, in case of a finding of guilty. He then signs the blank at the place provided for his signature.

9. The blanks, thus completed, are turned in to the adjutant, who examines the finding and verifies the sentence to see that it is not in excess of the limit prescribed in the executive order of the President, and submits them to the commanding officer for his action.

10. If the commanding officer concurs in the sentence, he approves the same by affixing his signature and dating it at

the appropriate place on the blank, and the record of the court is complete and the sentence may be executed.

11. The second copy of the blank is then completed by making it an exact copy of the original, and it is certified as a true copy by the adjutant.
12. The original is filed at post headquarters and forms the permanent record of cases tried by summary court. The second copy, authenticated by the adjutant, is furnished the company commander of the accused and forms the company record of the trial. The third is forwarded to the officer having general court-martial jurisdiction over the command.

Q. What action is necessary before a sentence of a court-martial may be carried into execution?

- A. It must be approved by the officer appointing the court, or by the officer commanding for the time being. The acquittal of the accused does not entitle him to be released from confinement at once. The acquittal is not effective until it has been acted upon by the proper reviewing authority.

Q. What is the effect of a disapproval of a finding and sentence of a court-martial on the part of the reviewing authority?

- A. A disapproval of the sentence of a court-martial by the reviewing authority is not a mere expression of disapprobation, but is a final determinate act putting an end to the proceedings in a particular case and rendering them entirely nugatory and inoperative; and the legal effect of a disapproval is the same whether or not the officer disapproving is authorized finally to confirm the sentence. But to be thus operative, the disapproval should be expressed. The effect of the entire disapproval of a sentence is not merely to annul the same as such, but also to prevent the accruing of any disability or forfeiture, which would have been incidental on approval.

Q. How are general court-martial trials of enlisted men published to the service?

- A. By general court-martial orders, promulgated from headquarters of the officer authorized to convene general courts-martial.

Q. What elements does a G. C. M. O. contain?

- A. So much of the proceedings of the court as will give the charges and specifications, the pleas, findings, and sentences, and the action and remarks of the reviewing authority on the case. If the charges contain matter unfit for publication, it will be omitted from the order.

Q. In what case is the confirmation of the President required?

- A. 1. Any sentence respecting a general officer.
2. Any sentence extending to the dismissal of an officer, except that in time of war a sentence extending to the dismissal of an officer below the grade of brigadier-general may be carried into execution upon confirmation by the commanding general of the army in the field or by the commanding general of the territorial department or division.
3. Any sentence extending to the suspension or dismissal of a cadet.
4. Any sentence of death, except in the cases of persons convicted in time of war of murder, rape, mutiny, desertion, or as spies, and in such excepted cases, a sentence of death may be carried into execution upon confirmation by the commanding general of the army in the field, or by the commanding general of the territorial department or division.

Q. What is meant by mitigation of punishment?

- A. A reduction in quantity or quality, the general nature of the punishment remaining the same.

Q. May the sentence of a court-martial be added to in any way?

- A. Neither the reviewing authority nor any other officer is authorized to add to the punishment imposed by a court-martial.

Q. Under what circumstances may soldiers convicted by court-martial be confined in a penitentiary?

- A. 1. Desertion in time of war.
2. Repeated desertion in time of peace.
3. Mutiny.
4. When the offense is of a civil nature, or by commutation of the death sentence.

5. On conviction of two or more acts or omissions, any one of which is punishable by confinement in a penitentiary.

Q. What is fraudulent enlistment?

- A. An enlistment procured by means of wilful misrepresentation in regard to a qualification or disqualification for enlistment; or by intentional concealment of a disqualification which has had the effect of causing the enlistment of a man not qualified to be a soldier and who, but for such false representation or concealment, would have been rejected.

Q. What elements must be proved to convict on a charge of fraudulent enlistment?

- A. 1. The enlistment of the accused in the military service as alleged.
2. That the accused wilfully misrepresented a certain fact, or facts, regarding his qualifications or disqualifications for enlistment, or wilfully—that is, intentionally—concealed a disqualification as alleged.
3. That enlistment was procured by such misrepresentation or concealment.
4. That under such enlistment, the accused received either pay or allowances, or both, as alleged.
5. Where a soldier enlists without a discharge, the proof should include the fact that at the time of the alleged enlistment the accused was a soldier, and that the enlistment was entered into without a regular discharge from the former enlistment.

Q. What is desertion?

- A. An absence without leave, accompanied by the intention not to return. Both elements are essential to the offense. The offense becomes complete when the person absents himself without authority from his place of service with intent not to return thereto. A prompt return and repentance are no defense, nor is it a defense that the deserter at the time of departure intended to report for duty elsewhere. Thus, a soldier who leaves his post, intending never to go back unless a certain event happens, or leaves his post with such intent and reports at another post, is a deserter; but unless such intent exists at some time, the soldier cannot be a deserter, whether his purpose is to stay away a definite or an indefinite time.

Where a soldier, without having been discharged, again enlists in the army, or in the militia in the service of the United States, such enlistment is, by the twenty-ninth article of war, made sufficient evidence of desertion. In such case, proof of the intent to stay permanently away from his former place of service, and the status of absence without leave therefrom, are unnecessary.

Q. What elements must be proved to convict a soldier of desertion?

- A. 1. That the accused absented himself or remained absent without authority from his place of service as alleged.
2. That he intended, at the time of absenting himself or at some time during his absence, to remain away permanently from such place.
3. That his absence was of a specified duration and was terminated as alleged.
4. That his act was done, if so alleged, in the execution of a certain conspiracy, or in the presence of a certain outbreak of Indians, or of a certain unlawful assemblage which his organization was opposing, or in time of war, where the court will not take judicial notice of the existence of a status of war.
5. Where the soldier enlisted without a discharge: that the accused was a soldier in a certain organization of the army, as alleged; and that without being discharged from such organization, he again enlisted in the army, navy or marine corps, or some foreign army, as alleged. In this case, proof of the absence without leave and of the intention not to return become unnecessary.

Q. What is absence without leave?

- A. When any person subject to military law is, through his own fault, not at the place where he is required to be, at a time when he should be there, he is said to be "absent without leave," or AWOL.

Q. What elements must be proved in AWOL?

- A. 1. Where the accused fails to appear or goes from a place of duty:
 - (a) That a certain authority appointed a certain time and place for a certain duty by the accused, as alleged.

- (b) That he failed to report at such place at the proper time, or, having so reported, went from the same without authority from any one competent to give him leave to go.
- 2. Where the accused is charged with absenting himself without proper leave:
 - (a) That the accused absented himself from his command, guard, quarters, station, or camp for a certain period, as alleged.
 - (b) That such absence was without authority from anyone competent to give him leave.

Q. Distinguish between arrest and confinement?

- A. The arrest of an officer has been compared to an enlargement on bail, the security being the officer's commission. It is for this reason that the punishment for breach of arrest may include dismissal. The distinction between arrest and confinement lies in the difference between the kind of restraint imposed. In arrest the restraint is moral, imposed by the orders fixing the limit of the arrest, or by the terms of the Article.

Q. What constitutes breach of arrest?

- A. The offense is committed when the restrained person infringes the limits set by orders, or by the 69th Article of War. The intention or motive that actuated him is immaterial to the question of guilt, though, of course, proof of inadvertence or bona fide mistake is admissible in guiding the court in fixing punishment. The unlawfulness of the arrest is a valid defense, but innocence

of the accusation for which the arrest is imposed is entirely irrelevant.

Q. What elements must be proved to convict of a breach of arrest?

- A. 1. That the accused was duly placed in arrest.
- 2. That before he was set at liberty by proper authority he transgressed the limits fixed by proper authority or by the 69th Article of War.

Q. What is a countersign?

- A. A countersign is a word given from the principal headquarters of a command to aid guards and sentinels in their scrutiny of persons who apply for permission to pass the lines.

Q. What is a parole?

- A. A parole is a word used as a check on the countersign. It is imparted only to those who are entitled to inspect the guards, and to commanders of guards.

Q. What constitutes the offense of making known the countersign and parole?

- A. The class of persons entitled to receive the countersign will expand and contract with the varying circumstances of war. Who these persons are will be determined largely, in any particular case, by the general or special orders under which the accused was acting. It is no defense, under the terms of this law, that the accused did not know that the person to whom he communicated the countersign or parole was not entitled to receive it. Before imparting such a word it behooves a person subject to military law to determine at his peril that the person to whom he presumes to give the countersign or parole is entitled to receive it.

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